

REPORTER'S RECORD
VOLUME 4 OF 5 VOLUMES
TRIAL COURT CAUSE NO. B13-637
COURT OF APPEALS NUMBER 04-14-00560-CR

THE STATE OF TEXAS) IN THE DISTRICT COURT
)
)
VS.) KERR COUNTY, TEXAS
)
)
VERNON LEE TRAVIS, III) 198TH JUDICIAL DISTRICT

TRIAL ON THE MERITS

On May 8, 2014, the following proceedings came on
to be heard in the above-entitled and numbered cause before a
jury and the Honorable Stephen B. Ables, Judge presiding, 198th
District Court, held in Kerrville, County of Kerr, Texas;

Proceedings reported by machine shorthand.

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TRIAL ON THE MERITS

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P R O C E E D I N G S

THE BAILIFF: All rise.

(Jury present).

THE COURT: Good morning, thank you. You may be seated. Thanks for being here early this morning. This is kind of a critical time. Usually when you come in at this time is when the bailiffs run back and eat your doughnuts.

When we stopped yesterday, we had moved into the punishment phase, the State had rested and the defense started calling their witnesses.

And I think we're ready for your next witness, Mr. Brown. Who would you like to call?

MR. BROWN: Yes, Your Honor. We will call Dawn Brown.

THE COURT: Good morning, Ms. Brown. If you'll step over here to this table, that's our witness stand.

Ms. Brown, I believe I swore you in before the trial started; is that correct?

THE WITNESS: Yes, sir.

THE COURT: So you're reminded you're under oath and would you have a seat and tell us your full name.

THE WITNESS: Okay. My name is Dawn Michelle Brown.

THE COURT: All right. Mr. Brown is going to start asking you some questions.

1 MR. BROWN: Thank you, Your Honor.

2 DAWN BROWN,

3 having been first previously sworn, testified as follows:

4 DIRECT EXAMINATION

08:37:03AM 5 BY MR. BROWN:

6 Q. Ms. Brown, would you please introduce yourself to the
7 jury?

8 A. My name is Dawn Brown and I'm Vernon Travis' mother. I
9 was Dawn Travis Brown and now I'm Dawn Brown.

08:37:19AM 10 Q. Do you mind if I call you Dawn?

11 A. I don't mind.

12 Q. Thank you. Dawn, where do you currently reside?

13 A. I live in Mansfield, Texas.

14 Q. Is that in the Dallas/Fort Worth area?

08:37:30AM 15 A. Yes, it's south of Dallas.

16 Q. What is your profession?

17 A. A 28-year educator, from teacher to principal and now
18 for Federal Programs and Student Interventions Director for
19 Burleson I.S.D.

08:37:42AM 20 Q. And how long have you held that position?

21 A. I've been there for -- this is my third year there.

22 Q. And give us a little background. Tell us a little bit
23 about Trey as a kid growing up.

24 A. As a kid growing up, Trey was small and so the -- he
08:37:59AM 25 was smaller than everyone else and I sent him to school I think

1 a little bit earlier than he should have, so he got the cutoff
2 on his birthday so he struggled a little bit in first and
3 second grade, but then he caught up because his mom was a
4 teacher and we worked really hard. And so he was -- he just
08:38:19AM 5 worked really hard and got where he needed to be to the point
6 that he accelerated and ended up graduating from high school a
7 year early.

8 Q. Now when you say a year early, do you recall what age
9 he was when he graduated from high school?

08:38:33AM 10 A. He was 16 going on 17. Because I let him in early on
11 the front end and he passed all the way and then he got out as
12 a junior, it made him two years younger than everybody else or
13 most kids that were seniors.

14 Q. Okay. And describe to the jury what type of things he
08:38:50AM 15 did as a kid growing up. Was he a basketball player? Did he
16 play baseball? What types of things did he do?

17 A. Everybody liked him and they all felt they needed to
18 take care of him because he was smaller than everybody else and
19 so -- because they found out he was good, that he was a good
08:39:06AM 20 basketball player, always picked for teams; but his goals,
21 because he wanted to get out of high school earlier, the
22 extracurricular got on the backside because he wanted to do
23 what his father, his grandfather, and his great grandfather had
24 done and that was to serve the country. And so we had the
08:39:24AM 25 Army, Navy, and then he went Air Force.

1 Keep talking?

2 Q. I'll stop you there.

3 A. All right.

4 Q. So you say that was his goal from the time he was
08:39:33AM 5 growing up as a kid. I mean that's what his aspirations were
6 was to join the military and follow in the foot steps of other
7 family members?

8 A. Right. Because his father and I were divorced early
9 and he was just very, very proud of his dad and anybody that he
08:39:48AM 10 ever talked to had served the country and that's what he wanted
11 to do, too.

12 Q. Now, what did he do and what did y'all do as a family
13 to help him as he got to his later years of high school to make
14 sure that he could join the military?

08:40:04AM 15 A. Well, I had to move once or twice to get him in
16 districts that you could get all your credits in the
17 appropriate time to graduate as a junior and so we moved, like,
18 two times; but also in order for him to get out, he had to sign
19 that he was going to be a third year grad and we didn't realize
08:40:23AM 20 being a third year grad, you also got a scholarship from the
21 State of Texas and so that made it even more enticing. And,
22 too, he went to summer school. I paid for him to be
23 accelerated by taking a class early so that he could be that
24 third year grad.

08:40:40AM 25 Q. Okay. And as far as preparing him, what were the steps

1 that he had to take to start the process for the military? Was
2 there testing that he had to do?

3 A. Yes, he had to take the Armed Forces Vocational
4 Aptitude, I think it's called, Battery. The reason I know this
08:40:57AM 5 is because I worked with the ROTC people as an assistant
6 principal and I thought, okay, the Air Force is kind of like a
7 civilian. He would get a career where he would learn some
8 skills and become a computer somebody and so he scored high and
9 his aptitude is high with computers and so that was the route
08:41:14AM 10 we thought. We thought that would be good so then he could
11 transition out into a civilian job and have a vocation.

12 Q. And you said he graduated in May of 2001. Was it some
13 time there shortly after that that y'all signed a contract to
14 commit him to the military?

08:41:30AM 15 A. Yes, he scored so high that I didn't have to push very
16 hard for the recruiters to go -- to get him. Most kids were
17 qualifying for the Army and the Air Force score had to be
18 higher and he had that score. And so we were being contacted
19 more than we were contacting them. And the recruiters were
08:41:48AM 20 good. They would be gung ho and they got me gung ho, and you
21 know, I thought, okay, I found a good place for my son and you
22 know I was helping other people's kids and they're --

23 MR. MONROE: Your Honor, if we can keep to
24 question and answer, it would be good.

08:41:58AM 25 THE COURT: Yeah. Why don't you do it question

1 and answer please. Thank you.

2 MR. BROWN: Okay.

3 Q. (BY MR. BROWN) Do you recall at one point in time he
4 actually signed a commitment contract to enter the Air Force?

08:42:09AM 5 A. He did. He signed a commitment. He turned 16 at --
6 and he wasn't old enough to get in, so they put him on a
7 deferred plan and --

8 Q. Hold on. When did he sign a contract to agree to go
9 into the military?

08:42:26AM 10 A. I think it was in June.

11 Q. June of 2001?

12 A. June of 2001, yes.

13 Q. Just after he graduated from high school?

14 A. Yes.

08:42:34AM 15 Q. Okay. Now, you mentioned to the jury because he was 16
16 they wouldn't allow him to go in so he was on a -- what did you
17 call it, a deferred?

18 A. Yes, it was deferred entry or delayed entry where you
19 sign a paper you're coming when you're old enough, you're ours.

08:42:50AM 20 So he was in -- keep talking?

21 Q. Hold on.

22 A. Okay.

23 Q. Okay. After he signed that contract and agreed to go
24 in at a later date, did he still have contact with the military
08:43:02AM 25 with physical training classes on the weekends?

1 A. Yes. Every weekend, he was required to go to physical
2 training and then they learned something out of a manual that
3 was like basic military things, so basically they were
4 practicing so they would be ready when they got in.

08:43:19AM 5 Q. Okay.

6 A. Okay.

7 Q. Now, when he was doing these weekend physical training
8 exercises, when was he supposed to sign for his actual job in
9 the military?

08:43:32AM 10 A. I was told by the recruiter that he would go right in,
11 but there had to be a job and so that delayed some and so we
12 thought it would be August and it ended up, he had already made
13 the commitment, he couldn't get out, you know, and so -- I
14 don't think -- I don't know if I'm answering the question, but
08:43:56AM 15 he wasn't able to take over a job yet, but he could not get out
16 of the commitment. And there were other recruiters after him
17 that were offering better deals.

18 Q. Okay. So he signs with them?

19 A. Yes.

08:44:09AM 20 Q. And then he signs a delayed entry program?

21 A. (Nods head up and down).

22 Q. And I guess 9/11 hits at some point in time from the
23 time he signs his paperwork until the time he actually gets
24 assigned his job?

08:44:25AM 25 A. He couldn't sign. He wasn't 18. I signed a waiver.

1 Then he signed for his commitment. He had already committed
2 but he signed a contract; and before his assignment came up,
3 all of a sudden we had a war.

08:44:44AM 4 Q. All right. And once I guess 9/11 hit, did you attempt
5 to try to get him out of the contract and the agreements that
6 y'all had signed?

7 A. I did because there had been a war -- that was the last
8 thing on my mind, there hadn't been a war in years, you know,
9 and in my mind it was Vietnam, but that is not what I wanted
08:45:00AM 10 him to go in and do. I wanted him to go in and get an
11 education. I had that in my mind because I help everybody
12 elses' kids and then the next thing I know there is a war and
13 the recruiter told me, oh, nobody is going.

14 MR. MONROE: Your Honor, can we keep to a
08:45:15AM 15 question and answer.

16 THE COURT: Yeah. We need to just listen to the
17 question and answer it very specifically, all right. So listen
18 real close.

19 Q. (BY MR. BROWN) If you'll listen to my question and
08:45:22AM 20 answer it, Dawn, and then I'll follow-up with another question.
21 Is that all right?

22 A. Yes.

23 Q. Have you ever testified before?

24 A. No.

08:45:27AM 25 Q. Are you nervous?

1 A. Yes. And I'm an English teacher. I talk a lot.

2 Q. Are you nervous?

3 A. Yes, sir.

4 Q. Okay. Just answer the question and it will go a little
08:45:41AM 5 bit better.

6 A. Yes, sir. Okay.

7 Q. Ultimately did his entry date in the military, was it
8 June of 2002?

9 A. Yes.

08:45:47AM 10 Q. Okay. And do you know if he served in Iraq?

11 A. Yes.

12 Q. Okay. Do you know what his -- do you know when he left
13 for Iraq? If you don't know the dates, that's okay but --

14 A. I don't know the exact date.

08:46:07AM 15 Q. Okay. But you know he did a tour of duty in Iraq?

16 A. Yes.

17 Q. Okay. Whose idea was it, did you feel, in signing the
18 waiver and getting I guess Vernon into the military just after
19 high school?

08:46:27AM 20 A. I pushed him.

21 Q. And what do you mean by you pushed him?

22 A. It was a family tradition. He was smart and when he
23 was younger, he had goals to be a police officer and he just
24 really wasn't showing me any direction, so I talked him into
08:46:53AM 25 getting an education through the military.

1 Q. And you testified that he had said that he wanted to
2 follow in the foot steps of family members, but are you saying
3 you pushed him into that path just after high school? I mean
4 as soon as he graduated?

08:47:08AM 5 A. No, it was really prior because he wasn't telling me
6 what he wanted to be when he grew up, and I was trying to guide
7 him like anybody else.

8 Q. And what was your purpose for pushing him towards the
9 military?

08:47:21AM 10 A. My purpose was for him to gain an education that would
11 make him have a successful life as a civilian once he -- if he
12 did not make that a career.

13 Q. And was there any tension for him, you know, to be --
14 to grow up from a kid to gaining experience or becoming a man?

08:47:46AM 15 A. Yes.

16 Q. Okay. And ultimately, he came back from Iraq and is
17 that what you found, that he had transformed from this boy or
18 kid to a man?

19 A. He came back with a different posture and a yes,
08:48:07AM 20 ma'am/no, ma'am but very little communication.

21 Q. Did you notice anything else about his demeanor or
22 behavior that had changed from prior to the military to when he
23 came back from Iraq?

24 A. When he came back, he slept a lot and I thought they
08:48:26AM 25 don't sleep in the Air Force, so why is he sleeping all the

1 time.

2 Q. And let me back up. We were talking about, do you know
3 what his duties were while he served in Iraq?

4 A. Yes.

08:48:38AM 5 Q. And what were those duties?

6 A. He worked in a mail facility that -- they had to guard
7 specific parts of the mail facility and towers and there were
8 oil fields and his main responsibility was to take Iraqi
9 civilians on and off the installation in a jeep and get back.

08:49:02AM 10 And there were oil fields and all those and so he was alone
11 taking these people on a daily basis in and out assuming that
12 they were friendly Iraqis.

13 Q. Now, I'm going to jump forward. He came back from the
14 military and did he go straight to the barracks, or where did
08:49:23AM 15 he go when he came back?

16 A. No, when he came back, he came to my house.

17 Q. Okay. And how long did he stay with you for?

18 A. About three weeks.

19 Q. And did you have a conversation with him about him
08:49:34AM 20 needing to go to the barracks and him not sleeping at your
21 house?

22 A. I said, they have a barracks for you there. You are a
23 man, you have served your country. You need to be on the
24 barracks with all the other soldiers because I lived right
08:49:49AM 25 outside the base, but the whole point was, be a man, be a man.

1 Q. And then ultimately did he go back to the barracks?

2 A. Yes, he did.

3 Q. And did he start having, I guess, issues maintaining
4 his room there at the barracks and get written up several times
08:50:06AM 5 for that?

6 A. Yes.

7 Q. And did that ultimately lead to him being discharged
8 from the military because he was keeping unfit quarters?

9 A. Yes, he was not keeping his quarters to the standard of
08:50:18AM 10 the military.

11 Q. And that was the reason for the general honorable
12 discharge?

13 A. Yes, general discharge under honorable conditions.

14 Q. And when he was discharged, explain kind of what his
08:50:33AM 15 demeanor or how his personality was at that point in time?

16 A. Just quiet. He didn't want to discuss anything that he
17 -- he just didn't want to discuss anything. He didn't want to
18 talk about anything.

19 Q. Did he seem withdrawn?

08:50:54AM 20 A. Yes, and I thought he was withdrawn because they're not
21 allowed to talk about stuff that they see. That's how his dad
22 was when he came back.

23 Q. Did you notice any changes in regards to alcohol
24 consumption?

08:51:10AM 25 A. He didn't drink in front of me, but he would come in

1 stumbling at odd hours and go to bed and just sleep until it
2 was time to go back to work.

3 Q. And ultimately after he was discharged from the
4 military, what was his I guess next job?

08:51:33AM 5 A. His next job was -- I worked for Judson I.S.D. and I
6 was the principal at the time and I knew that his record was
7 clean. He was a soldier. We did his resume, sent it out and
8 he got a job as a special education aide with a certificate as
9 a special education aide and with a certificate of an education
08:51:54AM 10 aide and they did a background check and all that. He was
11 good.

12 Q. And explain to the jury what that means as a special
13 education aide. What was he in charge of?

14 A. Well, he was an aide to a teacher for special needs
08:52:06AM 15 students, students that are -- these are actually -- they're
16 called severe and profound. You have to feed them. They're
17 noncommunicative. They're stronger than they think they are,
18 but most -- a lot of nonverbal communication.

19 Q. Okay. And how long did he work in that position?

08:52:25AM 20 A. I think he was in that one maybe three years because he
21 got a promotion.

22 Q. Okay. And he was promoted from that job to what?

23 A. He went from an elementary special needs aide to an
24 attendance clerk in a middle school.

08:52:42AM 25 Q. Okay. And was that within the same district?

1 A. Yes, it was in Judson I.S.D.

2 Q. Okay. And do you recall how long he maintained that
3 job?

08:52:54AM

4 A. It had to have been two years because I know he was
5 there about five years altogether.

6 Q. Ultimately did he leave, I guess, the school district
7 and find a new job?

8 A. Yes, he left the school district and found a new job.

08:53:10AM

9 Q. Okay. And what line of work did he get into after
10 that?

11 A. After that, I believe he started working with the
12 restaurant business.

13 Q. Okay. Would that be the Olive Garden?

14 A. Yes, sir.

08:53:19AM

15 Q. Okay. At some point in time after he was out of the
16 military, did he have a child?

17 A. Yes, he did.

18 Q. Okay. And do you recall what year that was?

19 A. Let's see, I'm the worse with dates.

08:53:37AM

20 Q. If you don't know, that's fine.

21 A. I don't know the year she was born.

22 Q. Do you know approximately how old she is?

23 A. She's six.

08:53:51AM

24 Q. Okay. And explain to the jury the type of father that
25 Vernon is to his daughter.

1 A. I wish that he -- he was the father that I wish Trey
2 had had. So anything he missed coming up with a single parent,
3 he made sure his baby had. And he's just wonderful with her.
4 He provides her with everything she needs. He takes her
08:54:19AM 5 places. They're like twins.

6 Q. Ultimately I believe you -- did you move to the Dallas
7 area sometime around that time frame?

8 A. I moved -- my parents had cancer and I kept flying up
9 there and I couldn't afford it, so I picked up and moved and
08:54:39AM 10 found an education job up there to take care of my parents.

11 Q. Okay. And I believe somewhere around 2009, and I'm not
12 exactly sure of the year, but Vernon ended up moving up to the
13 Dallas area with you; is that right?

14 A. That's right.

08:54:53AM 15 Q. And tell the jury why he moved up there with you.

16 A. I didn't know that the type of responsibility that goes
17 along with taking care of your elderly parents, and daddy was
18 going to VA and mom was with cancer, and I was falling apart.
19 I couldn't keep my life together while trying to take care of
08:55:14AM 20 their lives and he offered to come and spend time with me to
21 help me adjust to my new living conditions.

22 Q. And you were suffering from stress and depression as
23 well at the time and that's why he came up; is that right?

24 A. While -- it's embarrassing.

08:55:35AM 25 Q. It's okay. You don't need to discuss that.

1 A. I ended up having chronic depression watching the news
2 all the time and not knowing if my kid was one of those being
3 blown up and so I was out of sorts.

4 Q. Now, while he was living with you in the Dallas area,
08:55:58AM 5 would he still come back to the San Antonio area on a regular
6 basis to see his child?

7 A. Yes. And then he would bring her up and when he would
8 go to work, I would watch her and we just took turns being
9 there for each other.

08:56:26AM 10 Q. You know why we're here today. I mean, I'm sure Trey
11 has had discussions with you about it; is that right?

12 A. About what?

13 Q. About why we're here today, this case.

14 A. Yes, sir.

08:56:40AM 15 Q. Okay. And he's never told you that he wasn't
16 responsible, that he wasn't guilty of this crime, did he?

17 A. No.

18 Q. And he's accepted responsibility from the first time to
19 discuss this with you; has he not?

08:56:51AM 20 A. Yes.

21 Q. I want to back up just a little bit. You -- you were
22 in the courtroom when the video was played; is that right?

23 A. Yes.

24 Q. I mean, tell the jury what you saw on that video.

08:57:11AM 25 A. That wasn't my Trey. That wasn't my son. That was

1 like as -- many times I'm a strict parent. I was a
2 disciplinarian at school. I had to correct everybody elses'
3 kids and I'm looking at mine doing everything that I taught
4 them not to do and he wasn't in his right mind. It didn't look
08:57:34AM 5 like his eyes, the things he was saying. He's not
6 argumentative. He may not like what I say, but he always says
7 yes, ma'am. He doesn't even argue. I was so proud that I got
8 them through school with no problem, and you think you're done
9 raising them and then this happens.

08:57:54AM 10 Q. You mentioned, did he appear to be under the influence
11 of drugs or alcohol to you?

12 A. He was. His eyes were -- he -- he articulates better
13 than that and so he was like blah, blah, blah -- he doesn't --
14 he's respectful enough. That showed to me that was somebody
08:58:16AM 15 elses' kid. I don't know who that was because I mean -- I have
16 seen him tipsy, but never belligerent and it just wasn't my
17 kid.

18 Q. I mean, did Trey tell you that him and a guy by the
19 name of Scotty came up to Kerrville and kicked in the door to
08:58:43AM 20 collect money from a drug dealer?

21 A. Yes, he did.

22 Q. He never told you that he wasn't involved?

23 A. No.

24 Q. Do you know if prior to that day he had ever been to
08:59:02AM 25 Kerrville?

1 A. No.

2 Q. Do you know if since that day, he's ever been to
3 Kerrville?

4 A. No.

08:59:11AM 5 Q. Other than for court?

6 A. No, except for court. I didn't even know that he knew
7 where Kerrville was.

8 Q. When was the first time that you were able to get
9 Vernon or you had Vernon go for counseling or go to the VA?

08:59:39AM 10 A. He -- I kept telling him, you have the VA benefits and
11 why don't you use them and his paperwork was -- so we're
12 looking for this DT14 that he could never find. I said bring
13 me everything you have and let me go through it. And I finally
14 found the paperwork that he needed to be seen by the VA and
09:00:03AM 15 that was like around January.

16 Q. January of what year?

17 A. That was -- well, from the beginning we were trying for
18 the whole year. He would --

19 Q. When was the first time he actually went to the VA?

09:00:14AM 20 A. He went to the VA and he sat, because that's what you
21 do. Like last year, I want to say like starting in June.

22 Q. When was the first time he was seen by the VA?

23 A. I can't remember. He called me and told me that he
24 finally got to see somebody.

09:00:35AM 25 Q. Okay.

1 A. Because --

2 Q. If I told you it was January 2014, would you have a
3 reason to dispute that?

4 A. No, because I know we went like six months and finally
09:00:46AM 5 he got in because he was just sitting at the VA office and they
6 would say somebody is going to come see you, and no one would
7 ever. And I would say go sit again, go sit again.

8 Q. And then ultimately when he went to the VA, did they
9 set him up with a counselor?

09:01:03AM 10 A. No. They said, oh, this is not where you go for this.
11 We have satellites for mental issues in Arlington, so all of --

12 MR. MONROE: Your Honor, I'm going to object to
13 hearsay here.

14 THE COURT: Sustained.

09:01:17AM 15 Q. (BY MR. BROWN) Did they send you to another location?

16 A. They did.

17 Q. And was that location in Arlington?

18 A. Yes, it was.

19 Q. And was that because of the issues they believe Vernon
09:01:25AM 20 was suffering from?

21 A. Yes.

22 Q. Okay. And ultimately when he made it to Arlington, did
23 he see a counselor there?

24 A. Yes, he did.

09:01:32AM 25 Q. Okay. And do you know approximately how many times he

1 saw this counselor, if you know?

2 A. I don't know how many times.

3 Q. Was it more than once?

4 A. Yes.

09:01:39AM 5 Q. Okay. Ultimately after the counselor saw him more than
6 one time, did he send Vernon over for a mental evaluation?

7 A. He sent him to an emergency room for a mental
8 evaluation.

9 Q. Okay. And is that when he saw Doctor Delwin Williams?

09:01:55AM 10 A. Yes.

11 Q. Okay. And is that when he was diagnosed with the PTSD?

12 A. Yes.

13 Q. Okay. And I guess a couple of other issues: Alcohol
14 dependency, drug dependency and stuff like that?

09:02:09AM 15 A. Depression.

16 Q. Depression. Was he -- and I guess was that sometime at
17 the beginning of April 2014? If you don't know --

18 A. It was like March or April, in there.

19 Q. And after he was diagnosed by Doctor Williams, did he
09:02:29AM 20 also go see a Doctor Roache?

21 A. Yes.

22 Q. Okay. And did Doctor Roache I guess talk to him and
23 interview him concerning not only his PTSD but how the drugs
24 and alcohol related to his PTSD?

09:02:43AM 25 A. Yes. Yes.

1 Q. As far as you know, has Trey been compliant with his
2 medication since he's been diagnosed with PTSD?

3 A. Yes, he has.

09:03:16AM

4 Q. Okay. And has Trey related to you what his plans are
5 when he's ultimately released from jail?

6 A. His --

7 MR. MONROE: Your Honor, I'll object to a hearsay
8 response.

09:03:28AM

9 THE COURT: Make sure it's not hearsay. Sustain
10 the objection.

11 Q. (BY MR. BROWN) Do you know if Trey has plans for when
12 he's released from jail?

13 A. Yes.

09:03:40AM

14 Q. And have those discussions been made between him and
15 his father for him to go to Louisiana?

16 A. Yes.

17 Q. And do you believe that his father would be a good
18 support system for him in maintaining visits with the VA and
19 providing him a stable home and job? Is that a yes?

09:04:01AM

20 A. Yes, to do what I failed to do.

21 MR. BROWN: I have no more questions of this
22 witness, Your Honor.

23 THE COURT: Mr. Monroe.

24 CROSS-EXAMINATION

09:04:11AM

25 BY MR. MONROE:

1 Q. Mrs. Brown?

2 A. Yes, sir.

3 Q. No one here suggests --

4 THE COURT: Is your microphone on?

09:04:35AM 5 Q. (BY MR. MONROE) So no one here is suggesting that you
6 failed to do anything, okay?

7 When did Trey begin taking medications for the
8 first time approximately?

9 A. The self-medicating or the --

09:04:53AM 10 Q. No, the prescribed meds from Doctor Roache or Doctor
11 Williams.

12 A. It was March or April, whenever Doctor Williams, he
13 gave him a prescription.

14 Q. So just in the last 30 or 45 days?

09:05:10AM 15 A. Yes, sir.

16 Q. Did anyone ever suggest to Trey when he came back and
17 you saw the changed boy way back then to seek help from the VA?

18 A. No.

19 Q. The jobs in Judson Independent School District, the
09:05:53AM 20 aide and then the other job that he had, did he ultimately
21 leave those jobs voluntarily or was he asked to leave, the
22 second one?

23 A. He was asked to leave the second one.

24 Q. He was discharged, was he not?

09:06:11AM 25 A. They call it voluntarily resign.

1 Q. Right. Was he drinking excessively then?

2 A. I don't know because he didn't live with me.

3 Q. Okay. Fair enough. When did he begin living with you
4 again?

09:06:32AM 5 A. When he came to Dallas.

6 Q. And approximately when was that?

7 A. I got there in 2008, so I think he came 2009 or 10,
8 very shortly after I left there.

9 Q. And at that time, was he drinking pretty heavily then?

09:06:56AM 10 A. It would be an assumption on my part because --

11 Q. Let me ask you, did you observe signs of drinking?

12 A. I never observed him drinking because -- but, yes,
13 there were signs that he was drinking.

14 Q. Was it every few days, every day, what --

09:07:17AM 15 A. I believe every day.

16 Q. Every? Did he ever talk with you about drinking? Did
17 you ever raise that with him about the drinking?

18 A. I couldn't because I was drinking.

19 Q. All right. My wife is a hospice nurse and I understand
09:07:42AM 20 very well the difficulty you went through with your parents so
21 no one here is going to embarrass you for that either, okay?
22 It's not something that any of us request. We understand that.

23 Were you aware at any time that he was abusing
24 Xanax?

09:08:03AM 25 A. No.

1 Q. What was your understanding about what happened out in
2 Arizona?

3 A. My understanding of Arizona is he was just riding with
4 a friend and there was an amount of marijuana in the vehicle
09:08:30AM 5 and that friend said it was his, but because Trey was in the
6 vehicle, they were charged with the same thing.

7 Q. Do you know what the name of that friend was by any
8 chance?

9 A. Yes, I do.

09:08:41AM 10 Q. What's his name?

11 A. Michael.

12 Q. Michael?

13 A. Mike.

14 Q. Do you know his last name?

09:08:47AM 15 A. I don't know the last name.

16 Q. Was this someone that was from Arizona? Was it a
17 friend from Arizona or a friend from Texas?

18 A. A friend from Texas who had family in Arizona.

19 Q. So Trey and Mike were together in Arizona when they got
09:09:05AM 20 the possession charge?

21 A. Yes.

22 Q. Were you aware that it was an amount of marijuana in
23 excess of four pounds?

24 A. No.

09:09:14AM 25 Q. Would that surprise you that it was that great a

1 quantity?

2 A. I don't know what a lot or a little marijuana is.

3 Q. That's a lot.

4 A. Okay. I mean, I don't know.

09:09:26AM 5 Q. When he came back to Texas, you were aware that he was
6 on courtesy probation in Texas from Arizona?

7 A. Yes.

8 Q. Did it ever occur to you that the excessive drinking
9 was, in fact, a violation of his probation?

09:09:46AM 10 A. Never. You're telling me that now. I never knew.

11 Q. And that's what I am asking you what you knew.

12 A. I still don't know.

13 Q. I certainly understand. You have another son; do you
14 not?

09:10:08AM 15 A. Yes, I do.

16 Q. And what is his name?

17 A. Anthony Travis.

18 Q. And is he older or younger than Vernon?

19 A. Three years younger.

09:10:16AM 20 Q. Three years younger?

21 A. Yes, sir.

22 Q. And what does he do?

23 A. He's a police officer.

24 Q. And where is he? Where is he a police officer?

09:10:24AM 25 A. He's now at the University of Incarnate Word.

1 Q. Okay. Where was he a police officer around September
2 of 2013?

3 A. Last year?

4 Q. When this event occurred.

09:10:53AM 5 A. At the University of Incarnate Word.

6 Q. University of Incarnate Word?

7 A. He's been there a couple of years.

8 Q. Was he ever in Poteet?

9 A. Years ago, uh-huh.

09:11:04AM 10 Q. And approximately -- do you remember approximately when
11 he was a police officer in Poteet?

12 A. The older I get, time just -- gee.

13 Q. Well, let's orient it this way. Was he a police
14 officer in Poteet before you moved to Dallas or was it after --
09:11:25AM 15 or while you were there?

16 A. I believe he was in Poteet after I was in Dallas.

17 Q. All right. Okay. So within the last 3 or 4 years
18 then?

19 A. I have to like reason in my head. He needs to work
09:11:48AM 20 five years for the babies to get a free education, and I think
21 he's like in the fourth year.

22 Q. I got you. Is Anthony here with you all today?

23 A. No, sir.

24 Q. When you talked to Trey about what happened here in
09:12:25AM 25 Kerrville in September, you said he admitted to you what he had

1 done?

2 A. Yes.

3 Q. Did he admit to you that he had a gun?

4 A. He just told us a story, like not an admission but this
09:12:42AM 5 is what happened.

6 Q. Did he include in the story that he had a gun?

7 A. Yes.

8 Q. Did he include in the story that he fired the gun?

9 A. Yes.

09:12:54AM 10 Q. Did he include in the story that he was wearing body
11 armor?

12 A. It seems like I read that someplace like that was --
13 like I already knew some pieces so -- we never got a chance to
14 sit and do this whole story thing.

09:13:18AM 15 Q. All right. So bits and pieces?

16 A. Yes, sir.

17 Q. Where did he keep the body armor when he was living
18 with you?

19 A. He -- I don't know because first of all I never even
09:13:29AM 20 knew what body armor was until I found out it was a vest and
21 that's been since this has been going on.

22 Q. You never saw it?

23 A. Well, I never -- okay, sometimes he just look like he
24 had on more clothes than others so I never saw what -- I just
09:13:50AM 25 never questioned sweaters and bulky, so I wasn't looking for

1 anything. And you know, when kids go out -- I mean, not kids,
2 but when grown people go out, they go out like the witching
3 hour. When I'm going to bed, they go out and they come in at
4 4:00, you know, things like that.

09:14:04AM 5 Q. I understand?

6 A. So I'm not paying attention.

7 Q. We understand. Doctor Roache testified that his
8 initial contact -- I think this is what he said, that his
9 initial contact in this was with you?

09:14:26AM 10 A. Yes, it was.

11 Q. And tell me a little bit about that. How did you learn
12 about Doctor Roache?

13 A. I learned about Doctor Roache through researching
14 around the military, especially around Fort Sam and I saw an
09:14:42AM 15 article where this person was doing clinical trials. And I
16 thought, well, you know, I think something might be wrong with
17 Trey after this incident and so my attempt was to get him
18 involved in the trial.

19 Q. I got you. And just -- so it was actually you? Did
09:14:59AM 20 you employ Doctor Roache on behalf of Trey?

21 A. I did.

22 Q. Okay. And just out of curiosity, how much did you have
23 to pay Doctor Roache?

24 MR. BROWN: I'm going to object, Your Honor, for
09:15:12AM 25 relevance.

1 THE COURT: Overruled.

2 THE WITNESS: I have to discuss my finances here.

3 Q. (BY MR. MONROE) That's all I'm going to ask you is how
4 much did you pay Doctor Roache. Just to answer your question,
09:15:28AM 5 the rest of the finances are not important.

6 A. I'm broke.

7 Q. I just want to know how much you paid.

8 A. He charges \$250 an hour.

9 Q. Right. So what do you think your total bill to him
09:15:41AM 10 was?

11 A. Well, based on the way he had to do yesterday, I
12 haven't calculated it yet, but I was watching the clock and I
13 don't have a choice. This is my baby.

14 Q. I understand. And no one is taking you to task on
09:15:55AM 15 that. No one at all. I just knew that it was expensive and
16 just curious how much it was. \$250 an hour for how many hours
17 he was here?

18 A. Yes, sir.

19 Q. Some of them charge a rate for courtroom time, but he
09:16:09AM 20 was still hourly as far as you know?

21 A. Right. It was like \$250 an hour, plus his expenses.

22 Q. Right.

23 A. Since he's right down in Boerne, I didn't -- you know,
24 yeah.

09:16:20AM 25 Q. Did he make you give him a retainer?

1 A. Yes.

2 Q. How much retainer did you have to give him?

3 A. 750.

4 Q. 750, okay.

09:16:39AM 5 A. I'm sorry. You know, I need to back up. It didn't go
6 to him. It went to the University of Texas Health Career
7 something something.

8 Q. The payments were made to the school?

9 A. The payment is made to the school.

09:16:53AM 10 Q. All right. I got you.

11 MR. MONROE: I pass the witness.

12 MR. BROWN: I have no further questions of this
13 witness, Your Honor.

14 THE COURT: Thank you, ma'am. You may step down.

09:17:09AM 15 Ladies and Gentlemen, I need to do two civil
16 matters and Officer Van Klaveren said he has guarded the
17 kolaches and the doughnuts. So if y'all can take just a brief
18 break, I'll do these two civil matters and get you right back.

19 THE BAILIFF: All rise for the jury.

09:17:28AM 20 (Jury not present).

21 (Recess).

22 THE BAILIFF: All rise.

23 (Jury present).

24 THE COURT: All right. Everyone may have a seat.

09:33:28AM 25 Mr. Brown, you may call your --

1 MR. BROWN: We call Vernon Travis, Your Honor.

2 THE COURT: Who was your next witness, Mr. Brown?

3 MR. BROWN: We call Vernon Travis, Your Honor.

4 THE COURT: All right. Mr. Travis. Mr. Travis,
09:34:02AM 5 would you raise your right hand.

6 VERNON LEE TRAVIS, III,
7 having been first duly sworn, testified as follows:

8 THE COURT: Have a seat and tell us your full
9 name.

09:34:13AM 10 THE WITNESS: Vernon Lee Travis, III.

11 THE COURT: All right. Hang on just a second.

12 Mr. Brown, would you come up here and Mr. Monroe?
13 (Bench conference).

14 THE COURT: Mr. Brown, I just want to make sure
09:34:32AM 15 that you explained to your client that he has the right to
16 remain silent and does not have to take the stand.

17 MR. BROWN: If you would like to call him up,
18 Judge, we can do it on the record, but I have explained it to
19 him.

09:34:45AM 20 THE COURT: This is kind of a formality, but I
21 want to make sure that you understand that you don't have to
22 take the stand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You understand that you have a right
09:34:54AM 25 under the Fifth Amendment of the constitution and the Texas

1 constitution that you cannot be compelled to testify against
2 yourself?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You cannot be compelled to give
09:35:03AM 5 anything that might be incriminating. Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And do you still wish to testify in
8 this case?

9 THE DEFENDANT: Yes, sir.

09:35:09AM 10 THE COURT: All right. Thank you. Go back to the
11 witness stand.

12 Is there anything else you want to put on the
13 record with your client?

14 MR. MONROE: Maybe one other thing.

09:35:16AM 15 THE COURT: One more thing.

16 MR. MONROE: As long as we're all here, since Mr.
17 Travis has elected to take the stand, I want to announce to the
18 Court my intention to go into extraneous offenses with him
19 including the elements of all of the other charges he has been
09:35:34AM 20 indicted for and anything else that might have arisen out of
21 this offense. I'm just announcing it right now so everybody
22 knows.

23 MR. BROWN: And, Judge, if we were given notice of
24 that, then we would ask that they approach on anything that we
09:35:49AM 25 were not given notice of. If he's talking about other things

1 that have arisen out of this transaction, then I'm not aware of
2 it.

3 MR. MONROE: I have no idea what else I might find
4 out from this defendant, but I cannot give notice of it.

09:36:01AM 5 THE COURT: I think the rules change when he
6 decides to take the stand. At that point, you can question him
7 about anything once he takes the stand, but let's wait and see
8 what he says.

9 MR. BROWN: All right. Thank you.

09:36:14AM 10 MR. MONROE: Thank you.

11 THE COURT: Go back to your seat.

12 (Bench conference ended).

13 THE COURT: Let's kind of get back on track.
14 State your name for the record.

09:36:27AM 15 THE WITNESS: Yes, sir. Vernon Travis, III.

16 THE COURT: Mr. Brown, you can proceed.

17 MR. BROWN: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. BROWN:

09:36:34AM 20 Q. Vernon, at times do you go by a nickname Trey?

21 A. Yes, sir, Vernon Trey.

22 Q. Is that because you're the third?

23 A. Yes, sir.

24 Q. And at times I call you Trey, I'm referring to you; is
09:36:45AM 25 that right?

1 A. Yes.

2 Q. Is it okay that I call you Trey?

3 A. Yes, sir.

09:36:52AM

4 Q. Would you please introduce yourself to the jury and
5 tell them where you currently reside.

6 A. Vernon Lee Travis, III. I reside in Arlington, Texas.

7 Q. And who do you reside in Arlington with?

8 A. Now no one. I don't live with anybody in Arlington now
9 so --

09:37:08AM

10 Q. Okay. And do you have any brothers and sisters?

11 A. Yes, I have one full brother, two half brothers and
12 sisters. That's all I have.

13 Q. And where were you born at?

14 A. Monroe, Louisiana.

09:37:22AM

15 Q. And how long did you reside in Louisiana?

16 A. Till I was about 13. So about 13 years.

17 Q. Okay. And while you were in Louisiana, did your
18 parents live with you? Did they get divorced?

19 A. They got divorced.

09:37:37AM

20 Q. And who did you reside with after the divorce?

21 A. My mother, Dawn Brown.

22 Q. The lady that just previously testified?

23 A. Yes, sir.

24 Q. And ultimately, did you end up in San Antonio, Texas?

09:37:50AM

25 A. Yes, we did.

1 Q. Tell the jury a little bit about who you were, what you
2 did as a kid, a teenager and so forth.

3 A. I always was an athlete. I loved sports. My mom told
4 you earlier that I was small but I was good, you know, so
09:38:07AM 5 that's one thing I always watched Michael Jordan. I wanted to
6 be like Jordan, like most kids say.

7 My whole family, from uncles to dads all did
8 military and police work and I wanted to join the military at
9 one point in time. With that being said, I kind of changed my
09:38:26AM 10 tone from sports to try to graduate. I wanted to get out of
11 school early, you know. My mom was very strict, you know, and
12 I was like, hey, I want to do my own thing, you know. So she
13 was like, hey, you're either going into college or you're
14 going into the military. She pushed education very strong on
09:38:44AM 15 me and I love her for that, but you know, I messed up joining
16 the military. And I'm sorry, I didn't mess up. I joined the
17 military and that's about it right there.

18 Q. Okay. And you said you graduated early. Do you recall
19 how old you were when you graduated?

09:39:03AM 20 A. Yes, sir, I was 16.

21 Q. And to graduate at 16, did you start school I guess
22 early as well?

23 A. Yes. Yeah. I don't remember. I was very young, you
24 know, kindergarten. I was raised going through K-1 and up so I
09:39:20AM 25 kind of had a head start on a lot of people. From there, I was

1 about four when I started kindergarten. I was young as a
2 freshman in high school, so I didn't get to do a lot of things,
3 but yeah.

09:39:39AM 4 Q. Okay. And at what point in time I guess during your
5 educational career did you say, okay, I'm going to ramp this up
6 and graduate early?

7 A. My freshman year. Like I say, I played varsity as a
8 freshman. I did a lot of things, that my goal like I saw was
9 first academics. I had to turn around in my life at that time.
09:39:59AM 10 I was young, but I was telling my mom, I was like, wow, I'm 16
11 in college, I can't even do anything. And she was like, if you
12 go to college, you have to study in the first place. You know,
13 and I had my mind set, you know, everybody else is going to be
14 older than me. I just felt like living in the dorm style
09:40:16AM 15 environment at the time at age 16, school was important, so I
16 honestly felt like I wouldn't be able to do it, you know.

17 MR. BROWN: Okay. May I approach the witness,
18 Your Honor?

19 THE COURT: Yes, you may.

09:40:41AM 20 Q. (BY MR. BROWN) I'm going to hand you what's been marked
21 as Defendant's Exhibit No. 2 and ask you if you recognize this
22 document?

23 A. Yes.

24 Q. Okay. And does it fairly and accurately depict what it
09:40:59AM 25 purports to be?

1 A. Yes, it is.

2 MR. BROWN: Judge, subject to any objections, we
3 offer to admit Defendant's Exhibit No. 2.

4 (Defendant's Exhibit No. 2 offered).

09:41:13AM 5 MR. MONROE: No objection.

6 THE COURT: Defendant's Exhibit 2 is admitted.

7 MR. BROWN: Thank you, Judge.

8 (Defendant's Exhibit No. 2 admitted).

9 Q. (BY MR. BROWN) Tell the jury what Defendant's Exhibit 2
09:41:23AM 10 is.

11 A. Prior to my graduation, I got a letter from or a
12 certificate pretty much from -- I'm going to have to look at
13 it, it was so long ago, but from the U.S. House of
14 Representatives, you know. This is a Congressional Recognition
09:41:40AM 15 for graduating. That's what I received.

16 Q. And did it establish that you were class of 2001?

17 A. Yes, yes, class of 2001.

18 MR. BROWN: Judge, may I show it to the jury?

19 THE COURT: Yes.

09:41:53AM 20 MR. BROWN: Thank you.

21 Q. (BY MR. BROWN) Now, while you were in high school, did
22 you start preparing towards the end of your high school career
23 for entering the military?

24 A. Yes, sir.

09:42:15AM 25 Q. Okay. And prior to graduating from high school at the

1 age of 16, did you take some sort of entrance exam to see how
2 you scored?

3 A. Yes, I took the entrance exam.

4 Q. And explain to the jury what that particular test is.

09:42:30AM 5 A. It's pretty much all different levels of math, history,
6 computer knowledge, things like that that show you what you
7 would be good for certain courses, to show what you're good at.
8 Some people can only do certain levels of things, you know.
9 Try to keep everybody in a secure place where you know you're
09:42:49AM 10 taken care of if we're fighting for --

11 Q. And do you recall how you scored on that test?

12 A. I don't remember the exact number. I scored very high
13 what I was told at the time and, you know, and I had choices
14 where I wanted to go at the time.

09:43:04AM 15 Q. And while you were still in high school at the age of
16 16, were you talking to recruiters about joining the military?

17 A. Yes, I was.

18 Q. Okay. And ultimately, which branch of the military did
19 you choose to sign with?

09:43:19AM 20 A. I remember Sergeant Miller convinced me, you know, the
21 Air Force is the best bet for you. You know, you can go to
22 school while you're in the military. You get great training,
23 you know, the job, pretty much get a job -- if you decide not
24 to stay, you'll be able to get a job anywhere you want to as
09:43:37AM 25 long as you go to school with us; not school, but come to us.

1 Q. Now, did you sign with them before you graduated from
2 high school or after you graduated from high school?

3 A. I believe I graduated high school already.

09:43:55AM

4 Q. And so at the age of 16, you signed a contract with the
5 Air Force?

6 A. Yes, sir.

7 Q. Okay. And when you signed that, that was in 2001, did
8 they take you immediately into the Air Force at that time?

9 A. Oh, no. I was too young.

09:44:03AM

10 Q. Okay. And what did they call it? Is it a delayed
11 entry or what is it called?

12 A. Yes, it's called a delayed enlistment. Pretty much you
13 can be delayed because of age or because of job and I was
14 delayed because of both because the job that I wanted, I scored
09:44:18AM 15 high so I got a choice in jobs and I couldn't get it because of
16 that and because of my age. There were two reasons, two
17 factors that held me from going in at the age of 16. I guess
18 age was the first part.

09:44:35AM

19 Q. And I guess you turned 17 the following August after
20 you graduated, right?

21 A. Yes.

22 Q. And will they allow you and I guess a parent to sign a
23 waiver to allow you to enter at the age of 17?

09:44:47AM

24 A. Yes, I was allowed to sign in, not enlist, but sign in
25 to commit to the military. That's my commitment date and that

1 would be then.

2 Q. Okay. After you signed your contract at some point in
3 the summer, did you do physical training with the military even
4 before you had signed, I guess, to the specific job that you
09:45:03AM 5 were going to get?

6 A. Yes. I'm not familiar with recruitment offices but
7 they get young kids, young guys, men and women. And on Fridays
8 and Saturdays, they take you on military basis nearby, show you
9 around, a little bit of PT, some personal training. They give
09:45:23AM 10 you books for you to study, of who you salute, who you don't
11 salute, the ranks, just kind of to prepare you when you get
12 ready for basic training, to prepare. When you enlist, pretty
13 much people go straight in.

14 Q. And did you -- when were you supposed to sign I guess
09:45:39AM 15 the paperwork accepting your particular job after y'all did the
16 waiver at your 17th birthday?

17 A. When -- when -- it was September 11th when it happened.
18 My mom called me on the phone and she was like, turn on the TV.
19 We lived right outside of Randolph Air Force Base at the time
09:45:57AM 20 and I hear planes going everywhere. She was like, don't go. I
21 need to call the recruiter. I don't want you going in. You
22 know, and that day, they stopped it. Everything shutdown
23 anyway, so I couldn't do it. I can't go in because I'm not
24 committed until I sign that paper. I mean, you can go in and
09:46:16AM 25 say I commit to you, but until you go in and are sworn in,

1 you're not committed 100 percent, I put it that way. You're
2 not 100 percent committed.

3 Q. And that was the day you were supposed to sign for your
4 particular job?

09:46:28AM 5 A. Yes.

6 Q. And did that get in the way because of 9/11 and did you
7 ultimately sign a couple of months after that?

8 A. Yes. Yes, I did. That delayed my first job that I
9 wanted. My mom came back and talked to the recruiter. She
09:46:41AM 10 said I want a job that he's not going to deploy. And I was
11 young so I went with mom. And you know, she wanted a job where
12 I'm not going to deploy anywhere, so they said, okay, sign it.
13 We signed the paperwork right then and there.

14 Q. And what was the job for that you signed for?

09:46:58AM 15 A. It's 3AO. It's almost -- it's kind of like the
16 information manager, that's what you would call it regular
17 term. It's 3AO job, so it's information manager, which took me
18 by transfer to Keesler Air Force Base in Mississippi.

19 Q. Okay. And when was that job to become available? I
09:47:16AM 20 know you signed in 2001?

21 A. Right.

22 Q. But when was the job to be available for you to
23 actually start?

24 A. Well, I want to say I started -- I went to basic
09:47:24AM 25 training in say it was June of 2002. That's when I'm

1 committed, you know, you still -- you get people that go in and
2 say, I don't want you to do stuff for me, but my official date
3 would have been some time in June of 2002.

09:47:44AM 4 Q. So you signed sometime at the end of 2001 indicating
5 that you're accepting this job and actually your first start
6 date was June of 2002?

7 A. Yes, sir.

8 Q. And where did you do your basic training at?

9 A. Lackland Air Force Base.

09:47:55AM 10 Q. In San Antonio?

11 A. Yes, sir, San Antonio, Texas.

12 Q. And how long was that for?

13 A. I want to say it was six weeks, six weeks I want to
14 say.

09:48:05AM 15 Q. Did you -- where were you first stationed after you
16 completed basic training?

17 A. You go to tech school afterwards, but my first base
18 would have been Randolph Air Force Base and that's I guess I
19 want to say Live Oak, Texas, was the city.

09:48:25AM 20 Q. And how long were you there?

21 A. My whole -- my whole time in the military, say two
22 years.

23 Q. At what point in time did you get deployed to Iraq?

24 A. 2003.

09:48:37AM 25 Q. Okay. And were you deployed through the Army?

1 Through -- I know you said you were in the Air Force but
2 explain that situation to the jury. How you were deployed?

3 A. Well, what happened was there was somebody in front of
4 me to go, a pregnant woman then, so she automatically can't go.

09:48:57AM 5 There was the next person lined up, another female and you
6 know, my mom was upset a little bit. You know, I felt like I
7 needed to go. I felt like I was the most stable person at the
8 time who could do that. And you know, the military persons as
9 well, you're going to request -- you should request at the time

09:49:13AM 10 to move up the ranks. My whole thing was the military was
11 going to be my life. So I was going to go ahead and deploy
12 now, keep that back, you know, and that's when I went. I went.
13 Is that the question, I'm sorry?

14 Q. Yes, sir.

09:49:24AM 15 A. Okay.

16 Q. And do you recall and if you don't, that's okay, but do
17 you recall when you were deployed?

18 A. No, I just know it was 2003. I was there during the
19 holiday times.

09:49:35AM 20 Q. Well, explain that to the jury, the holiday times.

21 A. Well, it's -- I don't know if you're familiar with it,
22 but it's called Ramadan. At that time, it's a Holy -- all the
23 area there is familiar with Holy Land. So soldiers die here
24 for their country, people there die for their God pretty much.

09:49:54AM 25 So if they die, they go to a better place, things like that.

1 It's not all about -- at that point in time, it's not all about
2 terrorists doing things, it's about for your country the same
3 way it is for us Americans, but for them it's hurting somebody.
4 That's pretty much how we saw it ourselves.

09:50:12AM 5 Everyday we would hear mortar fire, explosions,
6 things like that. You know, every soldier, they had things --
7 like I say, every soldier that was killed, you know, they would
8 have marks for it, you could see the marks. So you knew -- it
9 was just -- it's just -- I don't know -- something.

09:50:27AM 10 Q. Was it difficult?

11 A. Yes, sir.

12 Q. How old were you when you made it through Iraq?

13 A. I was 18.

14 Q. And tell this jury what your job descriptions were,
09:50:44AM 15 what you did while you were stationed in Iraq.

16 A. Being a 3A, you were pretty much supposedly limited on
17 what you can do. So going to Iraq, I was not prepared mentally
18 or equipment wise.

19 Excuse me a second.

09:51:13AM 20 My job was supposed to be strictly mail, which
21 would be convoying mail going place to place, you know. We're
22 making sure everybody gets their mail. Me being detached from
23 the Air Force to an Army bridge or Army base they would call
24 it I guess in Kirkuk, Iraq, my job description changes, so I
09:51:38AM 25 was more of a floater. So they would have me, you know, drive

1 an F-350, pick up soldiers -- not soldiers but pick up Iraqis
2 from outside the base and some people from Turkey. Not
3 everybody was from Iraq, so don't think it was just Iraqis but
4 Turkey, people from the ages of 13 to 35, get 6 to 8 of them,
09:52:02AM 5 put them in a vehicle and drive to a certain location where
6 they dig and build towers. That's about it on the duty wise.

7 Q. Did you ever see or have any friends that were injured
8 or lost their lives while you were over there?

9 A. Yes, sir. Yes.

09:52:21AM 10 Q. Tell the jury a little bit about that.

11 A. All right. I told you about Ramadan. I had a close
12 friend of mine, they got caught with a bayonet (phonetic).
13 They did it with a surprise, with turkey, things like that for
14 Christmas. You know, it's supposed to be kind of a surprise
09:52:47AM 15 thing for everybody when you come back, you know, to your base,
16 you get a nice big, you know, family-type meal, but they were
17 ambushed.

18 Excuse me.

19 All right. I'm sorry. Sorry about that.

09:54:03AM 20 What's the question?

21 Q. I'll go to the next question. I'm sorry. How long
22 were you in Iraq for?

23 A. I believe six to eight months.

24 Q. And you mentioned to this jury that you went over with
09:54:18AM 25 the Army. Were you -- I guess, were you the only one from the

1 Air Force that was sent over from your group?

2 A. Yes, I met with people from Fort Bragg. I met them in
3 Germany and people from Vicenza, Italy, Army (phonetic).

4 Q. And when you returned, tell the jury I guess the
09:54:42AM 5 circumstances surrounding your return from Iraq and kind of how
6 that happened.

7 THE COURT: Is your microphone on?

8 MR. BROWN: Sorry, Judge.

9 THE WITNESS: Sorry.

09:54:58AM 10 Q. (BY MR. BROWN) If you would explain to the jury kind of
11 the circumstances surrounding your return from Iraq.

12 A. We have a command center. Armies, they go through
13 brigades when they go places so they all know each other.
14 They're all group. They all have a first sergeant. They have
09:55:17AM 15 people that they go towards for issues. Me, I had to speak
16 with our first sergeant and plus we had a tech sergeant that
17 was an Air Force gentleman. I'm not sure where he was from,
18 but that's where I was supposed to report to.

19 Well, the tech sergeant, he was sent back home. I
09:55:33AM 20 was still there. The brigade was leaving and I was still
21 there, so I didn't know what to do. I couldn't get ahold of my
22 back home command, period, so I felt like I was stuck and had
23 the Korean Army coming in so it wasn't military. It wasn't
24 Army anymore. And like I said, I was confused. I tried to get
09:55:59AM 25 ahold of people for two days, but I only had two days before

1 they were leaving. So what I did is I got on the plane with
2 the Army and went to Germany. In Germany, I bought my own
3 ticket back with my German travel card and flew back to the
4 states and --

09:56:16AM 5 Q. And when you came back to the states, did you go
6 directly to the barracks or where did you go?

7 A. I went to my mom's house.

8 Q. Looking for some comfort?

9 A. The military has a say, you know, they leave no man
09:56:32AM 10 behind and I felt like that's what happened, so I just --

11 Q. How long did you stay at your mom's house?

12 A. About three weeks.

13 Q. And while you were there, I mean, did you go out and
14 run around town or --

09:56:51AM 15 A. No. I just slept. Stayed in the room, just -- I
16 didn't want to --

17 Q. How old were you when you returned from Iraq?

18 A. I might have still been 18. I might have been 19. I'm
19 not 100 percent positive of my age at the time.

09:57:11AM 20 Q. And ultimately, did you end up back at the barracks?

21 A. Yes. I just kind of showed -- I surprised them when I
22 showed up.

23 Q. And when you showed up, did you get back in and you
24 were back on the ground as an Air Force cadet?

09:57:30AM 25 A. Yes.

1 Q. Okay. And did you start having problems, I guess,
2 maintaining or keeping things in order as you're supposed to?

3 A. Yes.

09:57:51AM

4 Q. Tell the jury a little bit about that, about the
5 write-ups you were receiving and so forth.

09:58:09AM

6 A. Well, when I got back, I was confused on why I had no
7 contact, no -- nothing, you know, everybody around was getting
8 care packages. You know, the only person I could talk to was
9 my mom. That was the only person I had the number memorized.
10 So that was the only person I could get ahold of from time to
11 time. And we had a change of command in my squadron when I got
12 back. I had no idea. So no one kept tabs on me, knew where I
13 was at, knew what was going on with me. You know, I walk in in
14 uniform like another day to go to work. Nobody says welcome
15 back, nobody says anything to me, like I was never there. I

09:58:30AM

16 guess I was kind of -- I was upset, you know. I was -- had hit
17 probably a low. So I had room inspections, you know, and they
18 would say, hey -- they would tell me, we're coming this day to
19 check your room out. The smallest thing is, I wouldn't close a
20 cabinet door, you know. I'd go -- during lunch go home and
21 what do I say, like leave the TV on, or, you know, just nothing
22 like malicious or anything, you know, just terrible -- but
23 things I knew I could do, I just didn't do it and I don't know
24 why I didn't do it because it was the simplest things but --

09:58:56AM

09:59:21AM

MR. BROWN: May I approach the witness, Your

1 Honor?

2 THE COURT: Yes, you may.

3 Just a second.

4 (Discussion off the record).

10:01:22AM 5 THE COURT: All right. You may proceed, Mr.
6 Brown.

7 MR. BROWN: Thank you, Your Honor.

8 Q. (BY MR. BROWN) I'm going to hand you what's been marked
9 as Defendant's Exhibit 3, 4 and 5 and ask if you recognize
10:01:34AM 10 these photos?

11 A. Yes.

12 Q. Do they fairly and accurately depict what they show in
13 these photos?

14 A. Yes, sir.

10:01:46AM 15 MR. BROWN: We would offer Defendant's Exhibit 3,
16 4 and 5 subject to any objections.

17 (Defendant's Exhibit Nos. 3-5 offered).

18 MR. MONROE: No objection, Your Honor.

19 THE COURT: 3, 4 and 5 are admitted.

10:02:05AM 20 MR. BROWN: Thank you, Judge.

21 (Defendant's Exhibit Nos. 3-5 admitted).

22 Q. (BY MR. BROWN) Now, you mentioned that there were some
23 things you were unable to comply with and Defendant's
24 Exhibits 3, 4, and 5 have been entered into evidence. Explain
10:02:16AM 25 to the jury what Exhibit No. 3 is, please.

1 A. It says the bedding area. I don't know if you're
2 familiar with military dorms, but it's a pretty small little
3 area. You have a sink and you know, a mini fridge under it and
4 a microwave, whatever you would like to have, and there is
10:02:37AM 5 glass behind it.

6 Q. And the countertop appears to have some items on it.
7 Is this part of the reason that you were written up for not
8 keeping your room in order?

9 A. Yes. On this one, it was because there was a smudge --
10:02:53AM 10 a smudge on the window.

11 Q. On the mirror?

12 A. Yes, on the mirror. You can't really depict it from
13 that, but that's what that was for.

14 Q. And Defendant's Exhibit No. 4?

10:03:04AM 15 A. This is a Futon I had. It has throw pillows on it and
16 a suitcase on the floor.

17 Q. And were you also written up about that?

18 A. Yes.

19 Q. And Defendant's Exhibit Number 5?

10:03:18AM 20 A. That's just my closet door. I didn't close it, but I
21 had already came home from work and it's not -- before -- well,
22 I don't know if I should explain that -- but yeah, I'm sorry --
23 it was already after work, uniform is hanging up in the closet
24 but it wasn't closed.

10:03:41AM 25 Q. So they cited you for not closing your closet?

1 A. Yes.

2 Q. And these are the types of --

3 MR. BROWN: May I publish these to the jury, Your
4 Honor?

10:03:50AM 5 THE COURT: Yes, you may.

6 Q. (BY MR. BROWN) And these are the types of write-ups
7 that you had that led ultimately to your dismissal; is that
8 right?

9 A. Yes, sir.

10:04:08AM 10 Q. Now, you did receive some certificates and I think that
11 while you were in the military, they gave you some awards and
12 certificates; did they not?

13 A. Yes, sir.

14 Q. And it seems like that maybe you were getting
10:04:27AM 15 certificates of maybe the same time frame as maybe you were
16 getting some of these write-ups?

17 A. No. The certificates came before the write-ups. The
18 write-ups came on my way out the door.

19 Q. Okay. And --

10:05:05AM 20 MR. BROWN: I'm going to -- may I approach the
21 witness, Your Honor?

22 THE COURT: Yes.

23 Q. (BY MR. BROWN) I'm going to show you a document that's
24 dated April 30 of 2004 and ask if you recognize that document?

10:05:36AM 25 A. Yes, sir.

1 Q. And is that I guess the physical write-up concerning
2 the photos that we just showed the jury?

3 A. Yes. Yes, sir.

10:05:52AM

4 Q. And read paragraph one to yourself and then in your own
5 words tell the jury basically what you were being reprimanded
6 for.

7 MR. MONROE: Your Honor, I would ask that the
8 document be admitted into evidence.

10:06:03AM

9 THE COURT: Yeah. Before we read from it, we need
10 to have it admitted.

11 MR. BROWN: Offer Defendant's Exhibit No. 6
12 subject to any objections.

13 (Defendant's Exhibit No. 6 offered).

14 MR. MONROE: No objection.

10:06:35AM

15 THE COURT: That's Number 6; is that correct?

16 MR. BROWN: Yes, Your Honor.

17 THE COURT: Number 6 is admitted.

18 MR. BROWN: Thank you.

19 (Defendant's Exhibit No. 6 admitted).

10:06:42AM

20 Q. (BY MR. BROWN) Tell the jury basically -- you don't
21 have to read from it. I'm going to provide it to them here in
22 just a minute, but tell me what it says.

23 A. Pretty much that I was warned that my room was messy
24 the day prior, that I was told or counseled to go clean it.

10:07:02AM

25 And they said when they came to the room for a random

1 inspection, which is not supposed to happen while you were in
2 the room, that I was still cleaning it and I got a letter of
3 reprimand while I was still cleaning the room that they said
4 needed to be clean.

10:07:23AM 5 MR. BROWN: May I provide this to the jury?

6 THE COURT: Yes.

7 Q. (BY MR. BROWN) And this is in regards to what we've
8 shown the jury the pictures and now this is the letter that
9 kind of confirms the pictures; is that right?

10:07:34AM 10 A. Yes, sir.

11 Q. When you came back from Iraq, I know you went to your
12 moms for three weeks but when you showed up at the base, did
13 anybody ever attempt to counsel you about what you had seen or
14 what you had done in Iraq?

10:07:47AM 15 A. No. I think because I had an Army buddy meet me when I
16 got back, he was there waiting for me when I got back, but
17 there was a debriefing process that the majority of people get
18 when you -- well, Army-wise you get a debriefing. The Air
19 Force, I didn't receive anything like that, so the normal what
10:08:12AM 20 happened out there, things like that was never given to me.

21 Like I said, I came in three weeks after the fact
22 that I came back to the states they had no idea. So I went to
23 work -- the next day, I went to work normal and I just went to
24 work every day until I was out.

10:08:39AM 25 MR. BROWN: May I approach the witness, Your

1 Honor?

2 THE COURT: Yes.

10:09:00AM

3 Q. (BY MR. BROWN) I hand you what's been marked as
4 Defendant's Exhibit No. 7 and ask if you recognize that
5 document?

6 A. Yes.

7 Q. Okay. And is this a fair and accurate copy of what it
8 purports to be?

9 A. Yes, it is.

10:09:35AM

10 MR. BROWN: I offer Defendant's Exhibit 7 subject
11 to any objections.

12 (Defendant's Exhibit No. 7 offered).

13 MR. MONROE: We have no objection to Number 7.

14 MR. BROWN: Thank you.

10:09:55AM

15 THE COURT: 7 is admitted.

16 (Defendant's Exhibit No. 7 admitted).

17 Q. (BY MR. BROWN) Now, is this a certificate for your
18 time -- if you read the paragraph under Accomplishments for
19 your time in Iraq?

10:10:06AM

20 A. Yes. That's right.

21 Q. And it appears -- you said that you believe you were
22 there in 2003; is that right?

23 A. Yes, sir.

10:10:13AM

24 Q. And it looks like that maybe it was November of 2003
25 through March of 2004?

1 A. Yes.

2 Q. Okay. And so you said six or eight months. It's about
3 five months?

4 A. Yes, sir.

10:10:20AM 5 Q. Okay. And you were discharged I believe approximately
6 three months later in June of 2004; is that right?

7 A. Yes, sir.

8 Q. And the notice that we've just showed the jury about
9 the complaints actually happened in April, which was about a
10:10:37AM 10 month after you had come back; is that right?

11 A. Yes, sir.

12 MR. BROWN: Judge, may we offer to publish?

13 THE COURT: Is it Number 8?

14 MR. BROWN: It's Number 7.

10:10:49AM 15 THE COURT: And you may publish it.

16 MR. BROWN: Thank you.

17 Q. (BY MR. BROWN) So the military gave you a certificate
18 saying that you had done a great job while you were in Iraq and
19 did things that you were asked to do; is that right?

10:11:05AM 20 A. Yes, sir.

21 Q. And then shortly thereafter, they remove you from the
22 military for being unable to follow the rules after you came
23 back from Iraq?

24 A. Yes, sir.

10:11:18AM 25 Q. And I may have cut you off. You did not receive any

1 counseling or any debriefs concerning your time in Iraq?

2 A. No, sir.

3 Q. Several months later when you were ultimately
4 discharged from the military, did you receive any counseling or
10:11:43AM 5 debriefs to see how you were as you were being exited from the
6 military?

7 A. No, sir. They told me if I needed help to go to the
8 VA's office.

9 Q. At that point in time, did you know if you needed help
10:11:58AM 10 for anything?

11 A. No, sir.

12 Q. Did you know that you were suffering from PTSD?

13 A. No, sir.

14 Q. Did you even know what PTSD was?

10:12:05AM 15 A. I was familiar with it, yes, sir.

16 Q. Now, upon leaving the military, I guess in June of
17 2004, what was your next line of work?

18 A. I started working at -- for Judson Independent School
19 District.

10:12:29AM 20 Q. And what did you do?

21 A. First, I was a special education aide for special needs
22 kids.

23 Q. Tell the jury a little bit about that job.

24 A. One -- one of my -- it was -- I enjoyed the job. I
10:12:46AM 25 think I communicated well with the kids, special needs -- and

1 not special needs, but I've always had that. I just enjoy
2 kids, so it was -- I enjoyed it because the kids would respond
3 to me more than they respond -- me being a young male actually
4 I think -- most of the people aren't young males, but they
10:13:08AM 5 respond to me more like an up-brother figure or a family member
6 compared to a teacher, so I didn't have all the disciplinary
7 problems or issues like some other people would have.

8 Q. How long were you at that job?

9 A. I want to say I was there for two years.

10:13:27AM 10 Q. And did you ultimately get promoted from that job
11 within the district?

12 A. Yes. I became an attendance clerk at Kirby Middle
13 School.

14 Q. How long did you do that one for?

10:13:41AM 15 A. That one I did for a -- I want to say a year, a year I
16 think it was.

17 Q. Throughout this time period while you were working for
18 the school district and so forth, tell the jury about your
19 drinking habits.

10:13:53AM 20 A. I drank a lot, starting off at the elementary school
21 with the special ed kids. I didn't drink at work. I didn't do
22 that, but I would be up all night and I would take pills before
23 I would go to work, you know, because I felt like that's what I
24 needed so that's what I did. I worked with no problem. I had
10:14:16AM 25 no issue with working. It was just, you know, you could

1 sometimes smell the alcohol. I -- nobody really noticed until
2 the teacher there quit and so it was me and a substitute
3 teacher about four months in and one of the substitute teachers
4 brought it to the principal's attention, and the principal
10:14:37AM 5 spoke with me about it and I just told her I had a long night,
6 you know, and that was it, you know, and kind of go on the next
7 day. Got a new substitute the next day. So it wasn't like you
8 had the same person, so it was kind of like I found ways to
9 cope with my job and be able to do that at the same time.

10:14:56AM 10 Q. You mentioned taking pills and you also smoked
11 marijuana; did you not?

12 A. Yes, I did. The marijuana started after working at the
13 -- at the elementary school. Before that, I did smoke a little
14 bit, but before I started working at the school, it was during
10:15:13AM 15 that summer of -- I remember that's when I kind of introduced
16 myself to marijuana because I had heard, you know, it would
17 calm you down. It was a calming thing, so I tried that.

18 Q. Were you having problems sleeping at night then?

19 A. Yes.

10:15:28AM 20 Q. And is that a reason why you were drinking and taking
21 pills?

22 A. Well, yes. I would try not to sleep. You know, that
23 was my fear. I didn't want to sleep, you know. The way I
24 would sleep would be like I say, when I worked at the
10:15:42AM 25 elementary school, there is play desks. I slept on desks

1 there. Just to make sure I'm there at work on time, I would be
2 there early, so when I would finish doing whatever I was doing
3 at four in the morning, I would be at school, you know, sleep
4 there. You know, I was just prepared for the school bus to get
10:16:01AM 5 there. The special ed kids, they don't walk to class. You
6 have to go get them. Just a bad place.

7 Q. Did you smoke marijuana or take pills or drink before
8 you entered the military?

9 A. No.

10:16:17AM 10 Q. Did you take pills or smoke marijuana or drink before
11 you were sent over to Iraq?

12 A. No, sir.

13 Q. And you've been arrested a couple of times for small
14 marijuana cases; is that right?

10:16:34AM 15 A. Yes, possession of marijuana.

16 Q. Personal use, zero to two ounces?

17 A. Yes.

18 Q. The prosecutors brought up the fact that you had an
19 Arizona marijuana case; is that right?

10:16:46AM 20 A. Yes.

21 Q. Tell the jury about that.

22 A. I was guilty of it. I can sit here and say the
23 marijuana wasn't mine. It wasn't. I was paid \$250 to ride
24 with a friend there, you know. I say a friend, Big Mike, you
10:17:04AM 25 know, so we went there. We came back and got stopped in

1 Arizona. I happen to be the one driving. I think the laws are
2 different in every state and, you know, he admitted that it was
3 his and then, you know, they said, well, you were driving. Do
4 you know it's in the vehicle. I told them no. They said,
10:17:22AM 5 well, hey, you know, both -- even though he says it's his,
6 you're both guilty, so --

7 Q. Did you take responsibility for it?

8 A. Yes, I did.

9 Q. You were placed on probation?

10:17:32AM 10 A. Yes, I was.

11 Q. After you worked as the attendance clerk for the school
12 district, what did you do next?

13 A. After the attendance clerk?

14 Q. Yes.

10:17:49AM 15 A. I started working at Olive Garden.

16 Q. And what did you do for Olive Garden?

17 A. I was a server/bartender. I started serving first,
18 then started bartending. They knew I was good with alcohol and
19 so, you know, it was kind of an easy promotion for me, but
10:18:04AM 20 that's where they put me at. I did that for I would say four
21 years, four or five years.

22 Q. And were you continuing your drinking and pill taking
23 through this time period as well?

24 A. Yes. It kind of -- it increased because like I say, I
10:18:23AM 25 was behind the bar. I can't say I didn't sit there and drink.

1 You know, you're allowed to have a cup there. I'm the only
2 bartender. I'm still functioning well. You know, if anything,
3 it felt like people enjoyed being around me. You know, it just
4 helped me out. It helped me to work in those kind of
10:18:46AM 5 environments, you know. It's difficult. You know, for me it's
6 difficult being in crowds unless I'm drinking. I can't go out
7 in bars without drinking. I have to -- in crowds, I have to
8 drink.

9 Q. I guess for the time frame you were working in San
10:19:03AM 10 Antonio, did you ultimately have a child?

11 A. Yes, I did.

12 Q. And how old is she?

13 A. She's six.

14 Q. And where does she currently reside?

10:19:18AM 15 A. Schertz, Texas.

16 Q. And has she been a big part of your life?

17 A. A tremendous part of my life. Tremendous.

18 Q. And tell the jury your relationship with your child.

19 A. That's my baby. It's -- everyday I went there when I
10:19:39AM 20 was able to be with her, you know, enjoyed every moment with
21 her. I wanted to be there to give her a bath, help her with
22 her bath. You know, she's too old to give her a bath now.
23 But, you know, I wanted to put her to bed. I wanted her to
24 wake up in the morning to see me. You know, we enjoyed times
10:19:56AM 25 together. You know, we had fun. You know, she -- when she was

1 about four, I think it was, she learned my phone number so she
2 just called me randomly, and nobody knows she called me.
3 Daddy, when are you coming to town. So we had -- me and her,
4 she's my buddy. You know, she likes the Kindle, like a Kindle,
10:20:14AM 5 she played it all the time. If it's me and her, she doesn't
6 care about the Kindle. You know, so I mean we have this
7 connection where we do -- she keeps me going. That's how I can
8 say it. My only lifeline was my child.

9 Q. You were engaged to the mom and you saw Jenna come in
10:20:34AM 10 here and testify; is that right?

11 A. Yes, sir.

12 Q. And ultimately you moved -- did you move to Dallas?

13 A. Yes, sir.

14 Q. And why did you move to Dallas?

10:20:44AM 15 A. My mom was sick. It was hard for me. Me and Jenna at
16 the time had already split up, but I was here so I could see my
17 daughter all the time. You know, I stayed busy. My mom was
18 sick and I had to make a big decision, you know. And I thought
19 if I was there, it would help me as well, you know, like slow
10:21:05AM 20 me down from my drinking; like, cut the pills, cut the people
21 out in my life that were pretty much the suppliers of those
22 things and I got -- so I moved there when she was, like I say,
23 she was sick so I moved there.

24 Q. And did it slow down the drinking or the pills?

10:21:23AM 25 A. No. At first I started drinking more. You know, you

1 heard my mom when she spoke. She let you know she had a
2 drinking issue or she had, you know, but there is where I
3 became a bartender for the Olive Garden. I stayed with the
4 same company, I just transferred. But, I just -- you know, I
10:21:42AM 5 drank, met friends, you know, working, going out to bars after
6 work with everybody. You find out that you're not the only one
7 that takes pills or wants pills. And the drinking, I got to
8 the point where I was like, when I was drinking I was like I
9 want pills and back into the situation. You know, from
10:21:59AM 10 going -- I would just drink, drink, drink to knock myself out
11 and I need the pills again to just kind of keep myself going I
12 felt.

13 Q. Did you come down to San Antonio when you moved to
14 Dallas to see your daughter?

10:22:21AM 15 A. Yes.

16 Q. And how frequent would you do that?

17 A. I -- at first I would come, you know, twice a week. I
18 was -- I could not be around her. You know, we have an ice
19 storm, I'm driving my car sliding in the ice just to get to
10:22:36AM 20 her. From there, it was like every other two weeks. First, it
21 was twice a week, then it became once a week. You know, I had
22 to kind of pull myself -- I couldn't afford to keep doing that,
23 you know. And then it turned once a month and then, you know,
24 slowly it started to make it twice a month. Again, I was
10:22:53AM 25 starting to make more money when I got my new job and I was

1 able to afford to go down there and see her more.

2 Q. You obviously know why we're here today, is that right,
3 Trey?

4 A. Yes, sir.

10:23:11AM 5 Q. September 5, 2013, do you remember that day?

6 A. Yes, sir.

7 Q. Let me back up a little bit before that. When was the
8 first time somebody told you that they may need your assistance
9 in this particular issue?

10:23:41AM 10 A. In Kerrville, it would be September 4th or 5th.

11 Q. Okay. What about the first time that they contacted
12 you in regards to helping out or assisting at a meeting?

13 A. I want to say it was my birthday. I had just turned 29
14 when I got the phone call, so it was the 24th or the next day.

10:24:05AM 15 It was the 24th or 25th. That's what it was for that.

16 Q. And you got a call from an individual saying that he
17 needed help or what was?

18 MR. MONROE: Your Honor, I just object to leading
19 the witness.

10:24:18AM 20 THE COURT: Sustained.

21 Q. (BY MR. BROWN) How did you learn about needing
22 assistance on the 24th or 25th of August?

23 A. Big Mike, that's the contact. That's the person that
24 when I came from Dallas to San Antonio, that's the only person
10:24:35AM 25 I would get pills from. I mean at the point I would need them,

1 I would call him. And every time I came to visit, you know, I
2 would get pills from him.

3 Q. And Big Mike was the guy that supplied you the Xanax
4 pills that you took?

10:24:47AM 5 A. Yes, sir. Yes, sir, but he got ahold of me saying,
6 hey, you know, just come with me. I'll give you some pills
7 later, just come with me. It's not going to be anything major.
8 I'm going to have a meeting and that was it, a meeting. But
9 not in Kerrville, it was supposed to be in the San Antonio
10:25:01AM 10 area.

11 Q. And after that conversation, did he call you again and
12 say -- well, what was the next conversation you had with him?

13 A. The next conversation we had was probably I want to say
14 about early September -- late August, early September -- but he
10:25:18AM 15 had called to say, hey, never mind, don't worry about it. And
16 I told him, hey, I'm already in Windcrest (phonetic). I plan
17 on seeing my daughter anyway, so he just pretty much canceled
18 the whole thing.

19 Q. And when you came in to see your daughter there during
10:25:35AM 20 that time frame of beginning of September, end of August, did
21 you make contact with Big Mike again?

22 A. Oh, yeah. What I would do is I would contact him
23 before I saw my daughter all the time just because I don't want
24 my daughter, you know, seeing me doing that, period, so I
10:25:49AM 25 contacted him the day when I was on the way here, which would

1 be -- I want to say it was -- I believe it was a Monday or
2 Tuesday I want to say it was.

3 Q. Okay. When you got to San Antonio, did you see Big
4 Mike?

10:26:02AM 5 A. Yes, I did. That's the first person I went to.

6 Q. And did y'all -- tell the jury what y'all did.

7 A. Well, Jenna, who y'all met earlier, prior, she was
8 coming into town from Arizona on Friday, so I was with Mike and
9 Mike said, hey, you know, let's go have some drinks, go to the
10:26:21AM 10 bar. I was like, cool, you know, let's go. And we started
11 drinking and, like I say, I was pimping him my Xanax. He was
12 just kind of giving them to me. I was like, all right. You
13 know, we drank and drank and he gave me pills. Actually, I
14 was -- pretty much I was the one that did most of the drinking,
10:26:44AM 15 but --

16 Q. And you say he gave you pills. I mean how many pills
17 do you think you took over, you know, that 48-hour time period?

18 A. I remember I took three when we started -- first at the
19 bar I took three, I remember that. I remember it was about
10:27:03AM 20 11:00. So around 2:30, I took two more and he gave me six or
21 eight more.

22 Q. Did you sleep at all that night?

23 A. No, we were -- no.

24 Q. And I guess during this drinking and taking the pills,
10:27:19AM 25 did the conversation come up again about meeting this

1 individual?

2 A. Yes, it did. It did. At this point, we had already
3 been at Scotty Pugh's house and -- or Timothy and we were
4 drinking and he brought to my attention, he said, well, you
10:27:40AM 5 know, I never met up with that guy. And we -- I wasn't
6 thinking about it. I'm drinking and me and Tim, Tim and I, we
7 were talking and didn't really pay attention and he brought it
8 up again, and he said, you know, the offer still stands. For
9 Tim, he said, if y'all want to go with me, you know, I don't
10:28:01AM 10 remember the amount of money he offered Timothy and he said
11 he'll wipe off my debt. And I looked at him, like what debt do
12 I have. And I guess those pills that he was giving me he
13 really wasn't giving me, you know. And I feel like I was set
14 up for that, but I did it. That's what happened.

10:28:22AM 15 Q. Did you agree to do it?

16 A. Yes.

17 Q. And did he tell you all y'all were going to go in --
18 did he even tell you the person's name?

19 A. No, we didn't know -- I'm sorry.

10:28:33AM 20 Q. Did you know the person's name?

21 A. No, sir.

22 Q. Had you ever been to the house before?

23 A. No, sir.

24 Q. Was it your intention to go in there and shoot your gun
10:28:44AM 25 or anything of that nature?

1 A. No, not at all.

2 Q. Had you known there was a child inside the house, would
3 you have ever entered the house?

4 A. No, not even thought about it.

10:28:55AM 5 Q. Even in the state of mind you were in?

6 A. No.

7 Q. So ultimately this Big Mike talks to you and Scotty and
8 says, let's go and do you -- does Scotty go to work and then
9 y'all meet up with him again later?

10:29:12AM 10 A. No, we met up with Scotty. We had already had a drink
11 and Scotty had worked that night. Me and Scotty were going to
12 talk regardless. I told him we were going to talk so --

13 Q. Did you send him a text message and or call him and
14 said hey, I need to talk after you get off work?

10:29:28AM 15 A. No, we --

16 COURT REPORTER: Whoa. One at a time.

17 THE WITNESS: I'm sorry.

18 We texted a couple of times. I called him though
19 in between. Text message is kind of hard if you're going to
10:29:35AM 20 meet somebody. It's just like I say, I called him at work and
21 it was back and forth. We talked.

22 Q. (BY MR. BROWN) Ultimately, did you and Scotty meet up
23 to drive up to Kerrville?

24 A. We didn't really have to meet up because like I say,
10:29:55AM 25 Mike brought me to Scotty's house while we were there. Like I

1 say, it was probably between five and seven in the morning, and
2 you know, Scotty was off work so we were just sitting there
3 drinking. So we went together, me and Mike.

10:30:16AM 4 Q. Was Scotty drinking with you at five or seven in the
5 morning?

6 A. Yes, he started drinking with me as well.

7 Q. Had you slept at all at that point in time?

8 A. No.

9 Q. Were you still drinking?

10:30:25AM 10 A. Yes.

11 Q. Were you still taking pills?

12 A. Yes.

13 Q. Ultimately did you drive up to Kerrville with Scotty?

14 A. Yes, I did.

10:30:32AM 15 Q. And before you left the house, there has been talk of a
16 bullet proof vest. Did you put that bullet proof vest on?

17 A. Yes, I did.

18 Q. And let me back up a little bit about the bullet proof
19 vest. When you got out of the military, did you get a bullet
10:30:48AM 20 proof vest?

21 A. Yes, I did.

22 Q. And where did you get it from?

23 A. I got it from the Eisenhower Flea Market. I don't know
24 if you know where it was. It's in San Antonio, Texas.

10:30:59AM 25 Q. And was it that particular --

1 A. No, it wasn't that vest.

2 Q. What did you do with that one?

3 A. I sold it. I needed the money. I had to sell it so --

4 Q. Where did you get that bullet proof vest from?

10:31:13AM 5 A. It's a friend of mine, Kristie. She had a vest in her
6 garage, I don't know who it was from, but I asked her. She was
7 fine with me having it. So I got it from her. I didn't have
8 to pay for it, so --

9 Q. And do you remember when you came into possession of
10:31:25AM 10 that vest?

11 A. I want to say it was almost right before I moved to
12 Dallas, you know. My whole thing was I needed money so I could
13 start moving, so I don't know exactly at the time. I don't
14 remember if I moved in 2009 or 2010, but one of those. I'm
10:31:46AM 15 sorry, I don't know the exact date.

16 Q. All right. But you got that before you moved?

17 A. Yes, I got that one before I moved to Dallas.

18 Q. Did you put that bullet proof vest on here in San
19 Antonio before you left or when you got to Kerrville?

10:32:03AM 20 A. Oh, I put it on in San Antonio.

21 Q. Okay. Was that at Scotty's house?

22 A. Yes.

23 Q. Okay. And tell the jury, I guess, what you were
24 wearing and how that came about, how you put that vest on.

10:32:17AM 25 A. Well, like I say, the only time I would really wear a

1 vest if like if I'm going somewhere, I'm going to a bar, I wear
2 it to work, things like that. Not around the house. If I'm
3 hanging around with friends at the house, I don't wear it.
4 That occasion, I was wearing a gray shirt. You know, I had the
10:32:33AM 5 vest with me, I had a gray shirt on and I think y'all saw a
6 video of me. I always put the vest on. I always wear a vest
7 under a shirt but you can't wear a vest under a T-shirt. So I
8 asked Scotty for a shirt, which he gave me. I don't know if we
9 have a picture of the greenish colored shirt. And I put it
10:32:51AM 10 over the vest buttoned up because that's just how I wear it. I
11 don't wear a vest on the outside, period, because that's not
12 how you wear a vest walking around in public.

13 Q. So you put the vest on over the gray shirt that we saw
14 in the video?

10:33:06AM 15 A. Yes.

16 Q. And then Scotty actually gave you a shirt to put on
17 over the vest?

18 A. Yes.

19 Q. At his house?

10:33:12AM 20 A. Yes.

21 Q. So there was no doubt that he knew that you had a vest
22 on?

23 A. Yes.

24 Q. Where did you get the guns from?

10:33:22AM 25 A. Mike gave them to me. Big Mike, he had a bag that had

1 the guns in it. I don't know if I go into detail, but --

2 Q. Is that where you got the guns from?

3 A. Yes.

4 Q. And is that where Scotty got his gun from was from that
10:33:39AM 5 bag?

6 A. Yes.

7 Q. Those weren't your guns that you brought from Dallas?

8 A. No.

9 Q. You don't own a gun?

10:33:45AM 10 A. No, I don't.

11 Q. While y'all were driving up to Kerrville, were y'all
12 still drinking?

13 A. Yes.

14 Q. And who was drinking, you and Scotty?

10:33:58AM 15 A. Yes, we both were.

16 Q. And y'all were in the same car?

17 A. Yes.

18 Q. Who was driving?

19 A. Scotty was.

10:34:05AM 20 Q. What were y'all drinking?

21 A. I want to say it was Captain Morgan.

22 Q. Whisky?

23 A. I want to say it was rum, spiced rum.

24 Q. Okay. Now when you got to the house, did you go
10:34:28AM 25 straight to it or what happened?

1 A. As we got there, we had stopped and Mike, that's when
2 he gave us the bag of guns. He said, hey, you know, take
3 these. You shouldn't have any issues. You're not going to
4 hurt anyone. Just tell them, you know, you're going to collect
10:34:49AM 5 the money and they should give it to you. You shouldn't have
6 to use any weapons, anything like that, but --

7 Q. So Big Mike told you where the house was and he gave
8 you the guns?

9 A. Yes. Yes, we followed him to the house.

10:35:04AM 10 Q. You followed Big Mike to the house?

11 A. Yes, sir.

12 Q. So when Scotty told the investigating officers that
13 y'all didn't have a map, you didn't have a GPS, that's why?

14 A. Yes. Yes, sir.

10:35:19AM 15 Q. And he said that he didn't think you had ever been to
16 the house. Had he ever been to the house before?

17 A. No, he hasn't because if I remember correctly, when he
18 said we're going to Kerrville, I didn't know where it was at.
19 Scotty was like -- Scotty was like, that's a distance from
10:35:36AM 20 here, you know, saying how far it was and we're probably going
21 to stop and get gas. That's what he told Mike at the house.

22 Q. And did y'all ultimately stop and get gas?

23 A. Yeah, we stopped at I believe it was a Shell station.

24 Q. So y'all stopped. Mike gives you the guns. Did he
10:35:56AM 25 point out the house to you? Like, did y'all drive by it or how

1 did that occur?

2 A. We drove by -- we were on the phone with him at the
3 time, on the speakerphone. He's like -- he calls and says,
4 well, this is the street. You know, it's a long road and he --
10:36:11AM 5 he goes, that's the guy outside. And so me and Scotty, we go
6 around, turn around, we get out of the car. The guy is pretty
7 much in the house already. I believe he's running into the
8 house. I didn't see exactly how he got in, but we turned
9 around and he was in the house.

10:36:29AM 10 Q. Let me stop you right there. Did Mike tell you why the
11 guy owed him money?

12 A. No, he didn't give us a specific reason why he owed him
13 money.

14 Q. Do you believe it was related to drugs?

10:36:41AM 15 A. Yes.

16 Q. So you turn around, you don't see anybody. You never
17 saw a child in front of the house or outside the house, did
18 you?

19 A. No. No, sir.

10:36:50AM 20 Q. Had you seen a child out in front of the house or
21 outside of the house, would you have gone into the house?

22 A. No, sir.

23 Q. Y'all get up to the front door, who kicks in the door?

24 A. Scotty does.

10:37:05AM 25 Q. And let me back up for a second. There was some talk

1 from the lady that was inside the house mentioning a black
2 bullet proof vest. Is there a reason why you think she
3 mentioned black?

10:37:23AM 4 A. Well, me and Scotty both had vests on. He had a black
5 vest on when he was over her. I had a blue vest on. It was
6 under a shirt, so I don't know how she can correlate me having
7 a black vest on.

8 Q. Okay. So there was a black vest, but you weren't the
9 one wearing it?

10:37:38AM 10 A. Right.

11 Q. And Scotty was?

12 A. Right.

13 Q. So he was wearing a vest as well as you were?

14 A. Yes, sir.

10:37:43AM 15 Q. Okay.

16 THE COURT: Let's see if you can kind of mark your
17 place and let's take about a ten-minute recess and then we'll
18 start back up.

19 Ladies and Gentlemen, if you'll go with the
10:37:52AM 20 bailiff.

21 THE BAILIFF: All rise for the jury, please.
22 (Jury not present).

23 THE COURT: We're in recess.
24 (Recess).

10:51:34AM 25 THE BAILIFF: Rise for the jury, please.

1 (Jury present).

2 THE COURT: Thank you. Have a seat. Mr. Brown,
3 you may continue with your examination of Mr. Travis.

4 Mr. Travis, have a seat.

10:51:38AM 5 THE WITNESS: Yes, sir.

6 MR. BROWN: Thank you, Your Honor.

7 Q. (BY MR. BROWN) I believe where we left off, Trey, was
8 concerning the vest and both of y'all were wearing vests; is
9 that right?

10:51:52AM 10 A. Yes, sir.

11 Q. And ultimately you make it to the residence in
12 Kerrville. And who was the person that kicked in the door?

13 A. Scotty did.

14 Q. Okay. And did both of y'all have a firearm in your
10:52:07AM 15 hand when you kicked in the door?

16 A. Yes, sir.

17 MR. BROWN: May I approach the witness, Your
18 Honor?

19 THE COURT: Yes.

10:52:18AM 20 Q. (BY MR. BROWN) I'm going to show you a diagram and it's
21 been admitted into evidence as State's Exhibit Number 24. I
22 had Amber Wilkinson draw the rooms on it, and I'm going to ask
23 you if you recognize the layout of the house in State's
24 Exhibit 24?

10:52:36AM 25 A. Yes, sir.

1 Q. Okay. And I'm going to hold it up and hopefully the
2 jury can see from there. With a pen, if you can show me the
3 front door -- the front door of where Scotty kicked in the
4 door?

10:52:59AM 5 A. Right here.

6 Q. So the pictures that show the front porch would be
7 right in front of that?

8 A. Yes, sir.

9 Q. Okay. And when the door was kicked in, did you and
10 Scotty immediately come into the house?

11 A. Yes, we did.

12 Q. Okay. And tell the jury where Scotty went to in
13 relation to this diagram?

14 A. Scotty went to the right.

10:53:20AM 15 Q. Okay. And when you say to the right, there appears to
16 be a hallway?

17 A. Yes, a hallway. He went into the hallway.

18 Q. How far in? Did he go in the hallway or just the front
19 of the hallway?

10:53:31AM 20 A. Yes, he was in the hallway.

21 Q. Okay. And where did you go?

22 A. I went to the left.

23 Q. Did you come up here in this -- is this the kitchen
24 area? I believe she marked this as the kitchen and dining room
10:53:41AM 25 area.

1 A. I remember I went to the dining -- looked in the dining
2 area, but I didn't go in there. I was at the door here.

3 Q. Okay. At any point in time, did you go down the
4 hallway?

10:53:52AM 5 A. No, sir.

6 Q. Okay. Did you ever go down towards where the woman and
7 child were?

8 A. No, sir.

9 Q. The first time that you realize there is a woman and
10:54:02AM 10 child in the house, was that after you were already inside the
11 house?

12 A. Yes. Well, once we got in the house, the gentleman ran
13 to the door and we saw a woman that went that way. So Scotty
14 went to where the woman was at, which she wasn't in there. She
10:54:17AM 15 was right here.

16 Q. In the hallway?

17 A. In the hallway.

18 Q. And did you, when you saw -- when you turned around and
19 noticed that they were there, did you say anything in that
10:54:28AM 20 direction?

21 A. Well, I looked back -- I heard the -- first, I was
22 banging on this door and told him to come out. And when I
23 turned back and she was screaming, I saw there was a little boy
24 right there. I told Scotty, make sure you get him in the back
10:54:44AM 25 room and that's when the gunshot came out.

1 Q. So when you turned around and say, make sure you get
2 him in the back room --

3 A. Right.

4 Q. -- that's when the shot was fired?

10:54:50AM 5 A. Right.

6 Q. And where were you standing, just outside the door?

7 A. No, I was sitting right there by the dining area.

8 Q. Okay. And you heard her testify when she was showing
9 you the diagram on this particular document, do you remember
10 that?

10:55:03AM 11 A. Yes, sir.

12 Q. Okay. And the way she went through and showing on the
13 document, that's actually how things happened; is that right?

14 A. The placement of the areas?

10:55:12AM 15 Q. Yes. Yes.

16 A. The living room and bedroom, yes.

17 Q. And when she was describing how you came in and how
18 Scotty came in on this particular document, she never mentioned
19 that you ran down the hallway, did she?

10:55:23AM 20 A. No, sir.

21 Q. And that's because it didn't happen, did it?

22 A. No, sir.

23 Q. You testified, I believe, right now that you told the
24 lady and the child to get in the back room?

10:55:33AM 25 A. Right. Well, I looked back and that's when I saw the

1 kid. I looked at Scotty and said, get him in the back room.
2 And the room, I was talking about this room because this
3 bedroom door was closed.

10:55:47AM

4 Q. So you couldn't even get in there because the door was
5 closed?

6 A. Right. Like I said, I looked down the hall. I was
7 standing right here in the little corner and that door was open
8 but this one was closed and --

9 Q. So you told him to get in that room?

10:55:56AM

10 A. Right. I said, get him in the room.

11 Q. And it's actually a bathroom but it was a room when you
12 saw a door that was open?

13 A. I didn't --

14 COURT REPORTER: Whoa, whoa, whoa.

15 THE COURT: A little slower.

16 THE WITNESS: Sorry. I didn't know it was a
17 bathroom because I was in the hallway, so I just --

18 Q. (BY MR. BROWN) So you had no idea what it was because
19 you never went down there?

10:56:11AM

20 MR. MONROE: Your Honor, I object to leading the
21 witness.

22 THE COURT: Sustained.

23 Q. (BY MR. BROWN) Now, you mentioned that you told him to
24 go in the back room. When you did that, what happened next?

10:56:19AM

25 A. That's when a gunshot came through the door.

1 Q. Okay. And is that when Officer Ledford testified that
2 Scotty told him he heard a shot that came through the door?

3 A. Right, because I turned and looked -- because I had
4 already told Scotty to go into the room with the child. So I
10:56:35AM 5 looked back to make sure because I wasn't sure -- I saw the
6 bullet go through. You know, it didn't hit me, so I was
7 looking back to see if it went back that direction. And they
8 hadn't even been in the room yet. It was just kind of like at
9 them and Scotty telling me, it was kind of all at the same
10:56:49AM 10 time. I looked back and Scotty looked at me to make sure I was
11 okay. And I was like, we've got to go. I looked at myself and
12 that's when I returned fire. And what I was trying to do is
13 suppress the way to get out. You do a suppress fire. So I did
14 one, I believe. I thought it was both in the door, but I got
10:57:07AM 15 one in the wall, but I was shooting at a downwards angle. And
16 once I stopped shooting, that's when my clip in the gun that I
17 had, the .45 that they showed everybody, when I shot it, the
18 clip fell out. So once the clip fell out, the spring broke and
19 you can't recock. I don't know if you know much about weapons,
10:57:28AM 20 but you cannot recock a gun without the spring in it. The
21 bullets won't stay. So what I was doing is picking up the
22 bullets off the ground at this time because everything had fell
23 out. And I saw a gentleman run across the front door and
24 that's when I was like -- that's when me and Scotty ran out the
10:57:43AM 25 front.

1 Q. And was there any confusion as to who shot first?

2 A. No, not at all.

3 Q. Who shot first?

4 A. The person in the bedroom.

10:57:50AM 5 Q. And do you even know what his name is?

6 A. No, sir.

7 Q. Ultimately I think you learned later that his name was
8 Wylie Wilkinson?

9 A. Yes, sir.

10:58:02AM 10 Q. Do you remember ever seeing a dog?

11 A. No, sir.

12 Q. Did you ever pistol-whip a dog or kick a dog or hit a
13 dog or anything like that?

14 A. No, sir, not at all.

10:58:11AM 15 Q. Did you or Scotty or anybody else shoot from outside
16 the house to inside the house?

17 A. No.

18 Q. Okay. And that would be consistent with the individual
19 who is in the bedroom that said that didn't happen either?

10:58:32AM 20 A. Yes, sir.

21 Q. A little while ago, you took some medication. You had
22 the bailiff come over and give you some medication. What was
23 that medication?

24 A. I'm not 100 percent of what the name of it is.

10:59:00AM 25 Q. What's the purpose?

1 A. Just calms me down, just kind of.

2 Q. Did it work. Are you calmer?

3 A. Yeah, I'm fine. Yes, sir.

4 Q. When you and Scotty left the house, what did you do
10:59:18AM 5 next?

6 A. We hopped in the vehicle and as he reverses, we saw a
7 vehicle already outside. It was an SUV. And I don't know if
8 the SUV fired at us or not, but so we went speeding down the
9 street. But right not even two houses down, I'll say there was
10:59:41AM 10 a state trooper. And I saw a state trooper, so I told Scotty,
11 hey, you know. Scotty looked at me, you know, something about
12 my career, what am I supposed to do. I told him, I said, I
13 don't know, just give me your gun. So he gave me his gun. I
14 threw both guns out of the window. And he pulled over, you
10:59:59AM 15 know. We were like -- at this time, we're talking it over.
16 Are we going to run or are we going to stay, so I threw the
17 guns out and I hopped out of the car and ran. This is all
18 about three or four houses or car-length miles away, or a
19 quarter mile, all in the same area.

11:00:15AM 20 Q. When y'all kicked in the door, was it ever your
21 intention to fire a gun?

22 A. No, sir.

23 Q. Was it your intention to get in there quick and get out
24 quick?

11:00:25AM 25 A. Yes, sir.

1 Q. Tell the jury why you threw the guns out the window.

2 A. Well, my fear was as soon as we got out of the vehicle,
3 we were going to get shot at. I mean, that's just -- because
4 when we turned the corner, the police officer saw me with a
11:00:42AM 5 weapon in my hand. I know he saw me with a weapon in my hand.
6 And anybody knows, you saw a shooting just happened, you saw a
7 guy with a gun, if we just hop out of the car normally --
8 because I mean, I couldn't process it all at the time. The
9 first thing that pops into my head was throw out the guns,
11:01:01AM 10 something is going to happen to you, you know, and that's what
11 I did.

12 Q. Were you still intoxicated at this point in time?

13 A. Yes, I was.

14 Q. When you pulled the car over, did Scotty run one
11:01:13AM 15 direction and you ran another with y'all's bullet proof vests?

16 A. We both ran in the same direction in I think it is a
17 wooded area that we were in. And once we got in the wooded
18 area, we kind of split off from there.

19 Q. And did he still have the bullet proof vest with him?

11:01:32AM 20 A. Yes, he still had it on.

21 Q. And ultimately did you come walking out of the woods?

22 A. Yes. It wasn't on the same road that the incident
23 happened. Like I say, I'm not from here, so when it comes to
24 pointing out exactly what street, I couldn't tell you. But I
11:01:47AM 25 remember I was walking in the woods and I was getting kind

1 of -- I thought I was going to pass out. I was kind of -- I
2 stopped running. I took the vest off. With the shirt that was
3 on it, I took it all off at the same time because -- I don't
4 know if you're familiar with the vest. If you take it off,
11:02:04AM 5 it's still inside the shirt. I put that down and was just kind
6 of a little delusional. I just walked -- I heard a -- when I
7 heard a car coming, I walked that direction and met y'all down
8 the street.

9 Q. And was there an officer standing there on the street
11:02:19AM 10 when you walked out?

11 A. There was a gentleman across the street and there was
12 an officer to the right of me, but there was a gentleman right
13 across the street. Yes, sir. I think he -- it was his house
14 possibly and he saw me and I walked out, and I turned and saw
11:02:31AM 15 the officer and started walking towards the officer.

16 Q. Did you follow the officer's commands when he
17 approached you?

18 A. Yes, sir.

19 Q. Did you tell him that you had thrown the guns out the
11:02:49AM 20 window?

21 A. No, we didn't -- he didn't ask me any questions like
22 that. He just kind of went through my pockets. I think he
23 might have asked where are they, where are the guns, because in
24 my pockets, I had the bullets from where the clip broke. All
11:03:04AM 25 the bullets were in my pocket still.

1 Q. Okay. Did you still have your bullet proof vest with
2 you or did you tell them where that was?

3 A. No, I had taken it off. Before even that, I don't
4 believe the officer knew anything about a bullet proof vest.

11:03:19AM 5 Like I said, it was like under the shirt, so I don't think
6 anybody knew there was a bullet proof vest until they found the
7 bullet proof vest. We didn't have a conversation about what
8 happened.

9 Q. So when you first came out, there wasn't a conversation
11:03:31AM 10 about what just occurred?

11 A. No. No.

12 Q. Ultimately they take you into custody. Did they take
13 you -- where did they take you? To the jail or where?

14 A. The drive -- I want to say it was the -- I want to say
11:03:43AM 15 it was the jail. The jail. I was -- I was intoxicated. I
16 really -- I think the heat possibly -- I don't know. I can't
17 explain how my body and everything was feeling. I was -- I was
18 out of it, so I can't tell you 100 percent sure if I was at the
19 jail, the Court. I don't know where I was at that point.

11:04:09AM 20 MR. BROWN: I'm sorry, I'm a diabetic and I have
21 to check my blood sugar.

22 Q. (BY MR. BROWN) When you got to the jail or the location
23 they took you to, is that when they did the recorded statement
24 on the video?

11:04:24AM 25 A. Yes.

1 Q. And you saw that here in the courtroom?

2 A. Yes, sir.

3 Q. Describe what you saw in that video.

4 A. I can't explain it. I've -- you know, it was an
11:04:42AM 5 out-of-body experience. That's what that is right there. I
6 have never -- I didn't know I could be like that. Just -- I
7 can't understand what I was saying in the video, just from
8 listening from there. I was trying to recall in my head what
9 did I say, but I really don't remember. Like I say, I know I
11:04:59AM 10 did commit a crime. I know I did that, you know, but
11 everything I told him, that's -- I don't know what I was
12 saying, you know.

13 Q. You were talking about a guy raping young females and
14 stuff like that. Do you have any idea where that came from?

11:05:14AM 15 A. I have no idea. My intent really was not even supposed
16 to talk to them I don't think. I really don't know why I did
17 that, you know. It's -- I really can't explain it.

18 Q. Were you still intoxicated at that point in time?

19 A. Yes, sir.

11:05:44AM 20 Q. You know you committed a pretty serious crime, don't
21 you?

22 A. Yes, sir, I know I did.

23 Q. Is there any -- at any point in time since your arrest
24 that you've come in here, told anybody, I didn't commit this
11:06:00AM 25 crime? I'm not guilty of it or anything of that nature?

1 A. No, sir. No, sir.

2 Q. Has it been your intention since day one, since you
3 came out of your drunken stupor with the pills and everything
4 to accept responsibility for this case?

11:06:16AM 5 A. Yes, I understand.

6 Q. I guess shortly after your arrest, did you finally make
7 it to the VA to get counseling?

8 A. Yes. I was still hesitant because I felt like, you
9 know, I really didn't have a problem. I just thought, you
10 know, I didn't think I had a problem at all.

11 What really got me to go to the VA was because
12 I -- you know, my mom was like, you need to see a counselor.
13 You've got something that you need to get off your chest. And
14 I was kind of like, oh no, I'm fine, do my normal get back to
15 drinking, the normal things I would do. And so my chest, I
16 started getting chest pains real bad. And I went to my
17 counselor that I started seeing at the time. The first time I
18 ever talked about Iraq was with him.

19 Q. Let's back up. When was the first time that you met
11:07:13AM 20 with the counselor about Iraq?

21 A. I can't -- I don't remember the exact -- I don't
22 remember. It was like four months ago maybe.

23 Q. Maybe the end of the year, the beginning of the year
24 time frame?

11:07:24AM 25 A. Yes, I would say that. Yes.

1 Q. Okay. And who was the counselor you were seeing?

2 A. Randy.

3 Q. Do you remember what his last name was?

4 A. I think it was Kahan, Randy Kahan.

11:07:34AM 5 Q. And where was Randy located?

6 A. Pantego, Texas, specifically. It was on the outskirts
7 of pretty much the Arlington area.

8 Q. And was he through the VA?

9 A. Yes, he was through the VA.

11:07:46AM 10 Q. Tell the jury how you came into contact with Randy and
11 how that come about.

12 A. Well, I had never touched the VA paper -- my paperwork
13 ever. I've never seen to them. I never touched any of my
14 benefits, period; from the GI bills, anything, and I went to

11:08:00AM 15 him and he kind of -- what they do they guide you, you know --
16 he can do a little counseling, but they guide you on things for
17 me to do to better yourself. I pretty much -- I told him my
18 situation, you know, let him know what I did and started off
19 with from Iraq -- well, went from a kid, to Iraq, to what I had

11:08:20AM 20 done since then and he said that he can see there is a downward
21 spiral and I -- I didn't see it myself because I mean, I think
22 for me, while I felt like I was okay -- you know, if I felt
23 bad, I just take more of whatever substance I had. I would
24 take more of it compared to -- I never thought of it as an
11:08:42AM 25 issue. And when I had the chest pains, he told me that I

1 needed to go to this -- to the ER. They sent me to I want to
2 say it's JSP because --

3 Q. What is JSP?

4 A. It's a hospital, but it's based off of income as well.
11:08:59AM 5 Because my VA benefits hadn't kicked in yet because I just
6 started doing the paperwork for it. So I went there and saw
7 Doctor Williams.

8 Q. And when you say there, that's the emergency room?

9 A. Yes, the emergency room at the JSP.

11:09:14AM 10 Q. And the counselor that you were seeing recommended you
11 go there immediately?

12 A. Well, yes. Well, actually he recommended me to go to
13 a -- check and see about consultation for a rehab facility and
14 because I told him I didn't have a problem, but he told me, you
11:09:31AM 15 have one. Just go and get the consultation, see what they say,
16 go from there. When I got there, that's when they started
17 asking me more questions and I told him, well, yeah, I do have
18 that chest pain that I talked to the counselor about. And they
19 referred me directly to the ER saying, you know, for any kind
11:09:50AM 20 of treatments or any kind of thing we have done, we need to get
21 your heart checked out first.

22 Q. So your counselor sent you to a rehab, the rehab sent
23 you to the emergency room?

24 A. Yes, directly to the emergency room.

11:10:02AM 25 Q. And tell this jury what you were telling the counselor

1 about your drinking issues and your pill issues.

2 A. I just -- I told him how much I took. I told him, you
3 know, from the pain medication, things like that, they ask you
4 about the daily usage, how much do you use. He said I had a
11:10:21AM 5 polysubstance abuse, something like that. I don't remember the
6 exact words for it, but he described the medication, that he
7 said, you know, I was trying to do cold turkey on some stuff
8 and he just said the pills that I take for the anxiety, they
9 kind of count -- they kind of act the side effects, so I won't
11:10:41AM 10 be having -- I won't have, I can't think of the words for it.

11 Q. Withdrawals?

12 A. No, he says you will still get some withdrawals but you
13 get like a scratch -- like scratch my arms. It's like little
14 ticks that could happen, but he said it's not something that is
11:10:57AM 15 addictive that can work in place of like the Xanax that I was
16 trying to take that wasn't prescribed to me. He said it's
17 pretty much that's not addictive and the dosage like -- I
18 thought I knew what I was doing, but I didn't, you know.

19 Q. Okay. And how many times do you think you saw this
11:11:14AM 20 counselor?

21 A. Once a week.

22 Q. For how many weeks?

23 A. I was going to say, whenever we started from there,
24 unless I had court, then I missed it. Those court dates, I
11:11:29AM 25 know I did.

1 Q. When you were referred to the emergency room, is that
2 where you ultimately came across Doctor Williams?

3 A. Right. When I got there, I told them about my chest
4 pains and they said, well, what were you coming here for. From
11:11:42AM 5 the beginning, I told him where I just came from. They had
6 given me a little paper saying what I was there for. They said
7 you can go to the mental health and they can do all that here.
8 You don't have to go back and forth. So that's when I went to
9 the mental health and that's when he told me about the chest
11:11:59AM 10 pains were probably from anxiety. And he asked me how long it
11 was going on and said the anxiety and stress can cause that,
12 and then we got into it something about the PTSD he was saying
13 I was suffering from.

14 MR. BROWN: May I approach the witness, Your
11:12:11AM 15 Honor?

16 THE COURT: Yes.

17 Q. (BY MR. BROWN) Let me show you what's been previously
18 marked as Defendant's Exhibit Number 1. Do you recognize this
19 document?

11:12:20AM 20 A. Yes, sir.

21 Q. And what is this document?

22 A. It's pretty much just saying what I was treated for
23 while I was there, what his diagnosis was.

24 Q. And when you say his diagnosis, who are you referring
11:12:34AM 25 to?

1 A. I'm sorry, Doctor Williams, his diagnosis.

2 Q. And what was his diagnosis?

3 A. Let me read it because I don't understand it all.

4 Your diagnosis was a drug induced mood disorder,
11:12:48AM 5 PTSD, and polysubstance abuse.

6 Q. Okay. And this was -- miraculously, you got diagnosed
7 with PTSD because the rehab actually sent you to be diagnosed?

8 A. Right. My counselor, he told me, he said he felt I had
9 that, but he's not a -- but he cannot diagnose that. So he
11:13:09AM 10 sent me to a different place, but they sent me somewhere else
11 and JPS is where I end up going because like I say, I don't
12 have medical insurance so I need to go somewhere.

13 Q. And what was the date of the diagnosis?

14 A. What's that --

11:13:23AM 15 MR. MONROE: Your Honor, I'd request before he
16 testify from the contents that you offer it.

17 MR. BROWN: We offer Defendant's Exhibit No. 1,
18 Your Honor.

19 THE WITNESS: Subject to any objections.

11:13:35AM 20 (Defendant's Exhibit No. 1 offered).

21 MR. MONROE: No objection.

22 THE COURT: Defendant's Exhibit 1 is admitted.

23 (Defendant's Exhibit No. 1 admitted).

24 Q. (BY MR. BROWN) Now, I'm sorry, we were on the -- what
11:14:04AM 25 was the date that you were diagnosed?

1 A. April 3, 2014.

2 Q. And were you prescribed medication?

3 A. Yes, sir.

4 Q. And what were you prescribed?

11:14:24AM 5 A. Vistaril, and where is the other one at, Zoloft.

6 Generic versions of those, but that's the name for them.

7 Q. And what were those prescribed for?

8 A. The Vistaril is for post-traumatic disorder and the
9 Zoloft for drug induced mood disorder.

11:14:48AM 10 Q. And is that the same thing as depression?

11 A. Yes, sir.

12 MR. BROWN: May I publish to the jury, Your Honor?

13 THE COURT: Yes, you may.

14 Q. (BY MR. BROWN) Do you notice some change in your own
11:15:25AM 15 life since you've been diagnosed and been taking medication
16 just in the last month?

17 A. Yes. Yes, sir.

18 Q. Tell the jury what changes you've noticed just in the
19 short period of time.

11:15:37AM 20 A. The biggest thing for me is the remorse for, you know,
21 the victims that -- with my situation right now, for my family.
22 Before, it was kind of like I didn't have feelings or emotions,
23 you know. Like I told y'all, I love my daughter, you know. I
24 loved her but when it came to emotions or anything else in the
11:16:00AM 25 world, it's kind of -- it's the only thing I had that I felt

1 and I apologize for breaking down and things like that. It's
2 just, you know, I -- ten years of my life is just, you know, it
3 was a blur, you know. I see it, I lived it and it's kind of
4 like my potential prior military to me was just unbelievable.

11:16:25AM 5 You know, and now I'm here, you know, leaving in handcuffs, so
6 I never realized all that until this happened. It's sad to say
7 that it took this to happen. And I'm sorry that it happened
8 but for me, I needed it to happen.

9 Q. Because you've been prescribed this medication, does it
11:16:47AM 10 help you, I guess think more clearly?

11 A. Yes, yes, I think quite clearer. My thing, you know,
12 like for working purposes, you know, working in a restaurant is
13 fast pace, just a lot of people. I don't know if it's anxiety
14 or what, but for awhile I couldn't do that. I cannot do that
11:17:06AM 15 at some point in time without drinking or pills, you know. I
16 just couldn't do it.

17 I really didn't notice a difference until, you
18 know, I went to the store with my cousin and I'm sitting there
19 and I'm in line and there is like three people beside me and
11:17:23AM 20 it was like, I didn't take my medicine this morning. It was
21 like just as needed. I just felt hot. I was bothered. I
22 didn't want to be there. And then it was like, go ahead take
23 your medication, you know. It's kind of like, I know it's
24 coming now. Before, I didn't give myself a chance to know
11:17:40AM 25 something bad was happening. I just drank, took pills, just

1 lived what I felt was a normal life at the time, which --

2 Q. Did you do that to numb the sensation going on in your
3 own head?

4 A. Yes. I want to say yes, that's what it was. After
11:17:56AM 5 doing it so long, it's a way of life so it's hard for me to be
6 like, well, because this is the reason why, this is why. It
7 was just for me to function properly, that's what I had to do.
8 If I didn't, I'd get migraines. You know, if I didn't drink,
9 I'd get migraines. If I didn't -- I felt like I needed that to
11:18:15AM 10 survive.

11 Q. Okay. Are you sorry for what you did November 6, 2013
12 -- I'm sorry, September 5, 2013?

13 A. Yes, sir.

14 Q. Are you remorseful?

11:18:44AM 15 A. Very.

16 Q. You were here crying when we first started these
17 proceedings. Is that some of the emotion that you can now show
18 that you weren't able to show in the past?

19 A. Yes. Yes, sir.

11:18:59AM 20 Q. When you get out of jail, do you have a plan in place?

21 A. Yes, sir.

22 Q. Do you have a support system in place?

23 A. Yes, sir.

24 Q. What is that support system and what is that plan?

11:19:13AM 25 A. Well, I'm going to do concrete with my uncle. From

1 there, I want to go into the VA's office and there is an Army
2 base called Fort Polk and there is a lot of other soldiers that
3 deal with the same thing I do and we don't see it. We go out,
4 we drink, you know, we -- we do things that we normally would
11:19:36AM 5 never do, but I want to be kind of that person to say, hey, you
6 know, look what I've been through. Look what I've done. Look
7 what I have in life and now look at what I have to look forward
8 to now. But you know, I don't feel this is the end for me but
9 I know I needed this, you know. I hate to say that y'all are
11:19:54AM 10 here for that, but I needed this.

11 Q. Are you -- you said in Louisiana, do you plan on moving
12 out there with your father and family that lives there?

13 A. Yes, with my dad.

14 Q. They would provide you a good support system?

11:20:10AM 15 A. Yes, sir.

16 Q. Make sure you make your doctor's appointments with the
17 VA?

18 A. Yes, sir.

19 Q. And continue with your treatment, whatever that may be?

11:20:18AM 20 A. Yes, sir.

21 Q. Take your medication properly?

22 A. Yes, sir.

23 Q. Will we ever find you in a situation like this again?

24 A. No, sir.

11:20:29AM 25 MR. BROWN: Pass the witness, Your Honor.

1 MR. MONROE: May we approach the bench, Your
2 Honor?

3 THE COURT: Yes, sir.
4 (Bench conference).

11:20:45AM 5 MR. MONROE: I couldn't anticipate much of a cross
6 before he took the stand. I just ask that the Court would
7 entertain letting us go to lunch a little earlier, let me
8 gather my thoughts, and I would be a little more consistent and
9 hopefully a little shorter if we do that.

11:21:03AM 10 MR. BROWN: I'd ask that we go for 20 or 30
11 minutes. My concern is I want to get done today and I don't
12 want to take any chances.

13 THE COURT: Here is my problem. I've got a civil
14 case that seven attorneys are coming at noon for me to do it
11:21:20AM 15 during the lunch break. If we break now, you know, I would
16 have to take like a two-hour lunch break in order to do it.

17 Scott, I think I'm going to need you to keep on
18 going.

19 MR. MONROE: Okay.

11:21:34AM 20 THE COURT: All right.

21 (Bench conference ended).

22 CROSS-EXAMINATION

23 BY MR. MONROE:

24 Q. There are a lot of questions I want to ask you.

11:22:20AM 25 A. Yes, sir.

1 Q. We'll start off by -- let's talk about Big Mike.

2 A. Yes, sir.

3 Q. What's his last name?

4 A. I have no idea.

11:22:30AM 5 Q. Yes, you do. Come on, what's his last name?

6 A. I really don't know.

7 Q. Yes, you do.

8 A. No, sir.

9 Q. He was your co-defendant in Arizona, wasn't he?

11:22:38AM 10 A. Yes, sir.

11 Q. And he was the same Mike that you were with when you
12 drove out to Madrona; the same guy, right?

13 A. Madrona?

14 Q. The one place here in Kerrville, in Kerr County, you
11:22:51AM 15 said his name is Mike?

16 A. Yes, sir. Yes, sir.

17 Q. You followed him out here?

18 A. Yes, sir.

19 Q. Same guy?

11:22:57AM 20 A. Yes, sir.

21 Q. The same guy, okay. And you're telling this jury that
22 you don't know his last name?

23 A. I don't know his last name.

24 MR. MONROE: All right. May I approach the
11:23:05AM 25 witness?

1 THE COURT: Yes.

2 Q. (BY MR. MONROE) I hand you what has been marked as
3 State's Exhibit 46 and ask if you can identify that?

4 A. Yes, sir.

11:23:22AM 5 Q. What is that?

6 A. That's from Arizona in 2009.

7 Q. A copy of your indictment?

8 A. Yes, sir.

9 MR. MONROE: Offer State's Exhibit 46.

11:23:32AM 10 (State's Exhibit No. 46 offered).

11 MR. BROWN: No objection.

12 THE COURT: 46 is admitted.

13 (State's Exhibit No. 46 admitted).

14 Q. (BY MR. MONROE) Let me refresh your memory. It's got
11:23:42AM 15 the co-defendant information on here in case you needed this.

16 A. Yes, sir.

17 Q. Michael Anthony Martin; is that correct?

18 A. Yes, sir.

19 Q. That's Big Mike?

11:23:51AM 20 A. Yes, sir.

21 Q. You didn't know that though?

22 A. No, sir. You just showed me the paper.

23 Q. You've known him all these years; Arizona, San Antonio.

24 You're going to go with him and on his behalf to commit one of
11:24:05AM 25 the worst crimes that the State of Texas recognizes and you're

1 telling this jury that you did not know his last name?

2 A. I did not know his last name.

3 Q. Did all that as a favor to him?

4 A. No, sir, it wasn't a favor.

11:24:16AM 5 Q. Was he ever your roommate?

6 A. No, sir.

7 Q. What address does it show for you, Mr. Travis?

8 A. 3022 Persimmon Drive.

9 Q. What address does it show for Mr. Martin?

11:24:33AM 10 A. 3022 Persimmon Drive.

11 Q. Cibolo, Texas?

12 A. Yes, sir.

13 Q. For both of you?

14 A. Yes, sir.

11:24:40AM 15 Q. But you still don't know his name?

16 A. Yes, sir. I know his first name, not his last name.

17 Q. I hand you what's been marked as State's Exhibit 47.

18 Do you recognize that?

19 A. Yes, sir.

11:25:00AM 20 Q. Who is that?

21 A. That's Mike.

22 Q. Does it fairly and accurately portray what Mike looks
23 like?

24 A. Yes, sir.

11:25:06AM 25 MR. MONROE: I offer State's Exhibit 47.

1 (State's Exhibit No. 47 offered).

2 MR. BROWN: No objection.

3 THE COURT: 47 is admitted.

4 (State's Exhibit No. 47 admitted).

11:25:16AM 5 Q. (BY MR. MONROE) So this is Big Mike?

6 A. Yes, sir.

7 MR. MONROE: Publish to the jury, Your Honor?

8 THE COURT: Yes.

9 Q. (BY MR. MONROE) So you're riding in the car in Arizona
11:25:36AM 10 with Big Mike who has more than four pounds of marijuana?

11 A. Yes, sir.

12 Q. And it's not yours?

13 A. Yes, sir.

14 Q. But you went ahead and take the fall for it or with
11:25:46AM 15 him? Did you take the fall with him?

16 A. You have to.

17 Q. I understand, but --

18 A. Yes.

19 Q. No, you could have fought. You could have done there
11:25:54AM 20 what you're doing here. You could have fought. You could have
21 had a trial, couldn't you?

22 A. No.

23 Q. You could?

24 A. Yes, sir.

11:26:01AM 25 Q. You can always have a trial?

1 A. Yes, sir. Yes, sir.

2 Q. And so you and Big Mike stayed in communication? Y'all
3 were friends?

4 A. Yes, sir.

11:26:09AM 5 Q. And you come back here and it's my understanding that
6 this whole thing that happened in Kerrville was at the request
7 of Big Mike?

8 A. Yes, sir.

9 Q. A friend that you didn't know his last name?

11:26:23AM 10 A. Yes, sir.

11 Q. Who basically asked you and Scotty Pugh -- am I right
12 so far -- you and Scotty Pugh to arm yourself and put on body
13 armor and go to a residence in Kerr County that you know
14 nothing about to break into the residence and to commit theft?

11:26:51AM 15 A. No, sir.

16 Q. Okay. Which part of that did I miss?

17 A. About the breaking into the residence part.

18 Q. Well, how were you going to get in? Were you going to
19 knock on the door?

11:27:01AM 20 A. As we got there, the gentleman was outside so --

21 Q. Were you going to go point the gun at him?

22 A. We did not decide that. We didn't have a -- we didn't
23 have to decide that.

24 Q. Okay. Let's talk about the event in Kerrville.

11:27:28AM 25 A. Yes, sir.

1 Q. When did you first have a conversation with your
2 convicted felon friend Big Mike about doing something for him
3 in Kerrville?

4 A. I want to say it was the 4th, the morning of the 5th.

11:27:44AM 5 Q. All right. And how were you communicating with Big
6 Mike?

7 A. I want to say on a cell phone.

8 Q. Cell phone?

9 A. Yes, sir.

11:27:51AM 10 Q. Are we communicating with him by phone calls or by text
11 messages or both?

12 A. I want to say it was both.

13 Q. All right. When did Scotty Pugh get involved?

14 A. The 4th.

11:28:04AM 15 Q. The 4th?

16 A. The 4th or the 5th. The morning of.

17 Q. That's the first time you had any communication with
18 Scotty Pugh about anything like this?

19 A. In Kerrville.

11:28:15AM 20 Q. In Kerrville?

21 A. Yes, sir.

22 Q. The morning of the 4th?

23 A. Yes, sir.

24 Q. And how were you communicating with Scotty Pugh?

11:28:21AM 25 A. That was from phone calls and text messages.

1 Q. Okay.

2 MR. MONROE: May we approach the bench?

3 THE COURT: Yes.

4 (Bench conference).

11:28:36AM 5 MR. MONROE: I want to show him the text messages
6 and offer them into evidence, his and Scotty Pugh's, that
7 purport to be from his phone.

8 THE COURT: I guess you can see if you can lay the
9 proper predicate and he can object. As far as limine, it's not
11:28:53AM 10 a limine issue.

11 (Bench conference ended).

12 Q. (BY MR. MONROE) I hand you what's been marked as
13 State's Exhibit 43, 44, and 45 and ask if you can identify
14 that.

11:29:11AM 15 A. Do you want me to identify it as?

16 Q. Do you recognize what that is?

17 A. It's text messages.

18 Q. Between who?

19 A. It says me. It doesn't say who else.

11:29:23AM 20 Q. Well, do you recognize from reading them?

21 A. Well, yes.

22 Q. Text messages from you to whom? Scotty Pugh, isn't it?

23 A. Let me read the messages.

24 Q. Sure.

11:29:43AM 25 A. Yes, sir.

1 Q. Okay. Do you recognize them, text messages between you
2 and Scotty?

3 A. Yes, sir. I don't remember the exact words, but I
4 notice --

11:29:52AM 5 MR. MONROE: Offer State's Exhibit 43, 44, and 45
6 into evidence.

7 (State's Exhibit Nos. 43-45 offered).

8 MR. BROWN: No objection.

9 THE COURT: 43, 44, 45 are admitted.

11:30:04AM 10 (State's Exhibit Nos. 43-45 admitted).

11 MR. MONROE: Can I publish it to the jury, Your
12 Honor?

13 THE COURT: Yes.

14 Q. (BY MR. MONROE) Okay. This image on the screen is
11:30:54AM 15 State's Exhibit 43, and I'll let you look at the actual exhibit
16 so you can verify that that is, in fact, the same one.

17 A. Yes, sir.

18 Q. And this would be the language in the white background
19 is text from you to Scotty Pugh and the language in the green
11:31:15AM 20 background is text from Scotty Pugh back to you; is that
21 correct?

22 A. Yes, sir.

23 Q. All right. So this -- the date on this one is
24 August 25, 2013?

11:31:26AM 25 A. Yes, sir. Yes, sir.

1 Q. And you state, "Can u try and get off Monday and
2 Tuesday"; is that correct?

3 A. Yes, sir.

11:31:37AM

4 Q. And then Scotty Pugh responds, and you say, "the 2nd";
5 is that correct?

6 A. Yes, sir.

7 Q. And he says, "Yea, ill request those 2 days off."

8 And you say, "Do Wednesday also it will be worth
9 it."

11:31:47AM

10 A. Yes, sir.

11 Q. Wednesday was the day this offense was committed; was
12 it not? It was committed on a Wednesday?

13 A. I believe so.

14 Q. "Okay cool ill try, ill give you a call when I get
15 off."

11:31:58AM

16 And you say, "Cool"?

17 A. Yes, sir.

18 Q. The next text message you have from Scotty Pugh is not
19 the 5th, is it? It is the 3rd?

11:32:08AM

20 A. Yes, sir.

21 Q. "Can you text."

22 He responds, "Yea, we have been non stop today."

23 "What time u getting off."

24 "I'm hoping around 11."

11:32:19AM

25 "Cool call me tonight so I can get u up to

1 speed."

2 "Ok sounds good."

3 "Gloves if u can."

4 A. Yes, sir.

11:32:31AM 5 Q. And you're telling this jury that you weren't planning
6 this as early as that text message?

7 A. Sir, the text message is the time I was telling you
8 about.

9 Q. My question was, are you telling this jury that you
11:32:44AM 10 were not planning this when you first started texting Scotty
11 Pugh back in August?

12 A. No, sir.

13 Q. That's not what you're talking about?

14 A. No, sir.

11:32:53AM 15 Q. Different pair of gloves. Which pair of gloves are you
16 talking about there?

17 A. I didn't see another pair of gloves.

18 Q. Well, you asked him, "gloves if you can." What are you
19 talking about there?

11:33:03AM 20 A. When you say the second pair of gloves, what are you
21 talking about? I don't see where it says that.

22 Q. You say, "gloves if you can." I said, what are you
23 talking about when you said gloves? What are you talking about
24 Scotty Pugh about gloves for?

11:33:14AM 25 A. To get his gloves.

1 Q. For what?

2 A. I'm confused on what you're asking me.

3 Q. What were you having Scotty Pugh to get the gloves for?
4 To commit this offense, right?

11:33:26AM 5 A. No, the offense we talked about that day we didn't do
6 it that day, no.

7 Q. So that's a different offense you were talking about?

8 A. No. That's -- no.

9 Q. Which one was it? You asked him to get gloves, to
11:33:37AM 10 bring gloves with him so you could commit this crime on
11 September 5th; isn't that correct?

12 A. I went to him and asked for them.

13 Q. That's what that says, is it not, Mr. Travis?

14 A. That's not what happened.

11:33:47AM 15 Q. My question is very simple. I'll just ask it one more
16 time. Were you asking Scotty Pugh to bring gloves to
17 participate in this offense?

18 A. No, sir.

19 Q. All right. "What time u get off."

11:33:59AM 20 "I'm hoping before midnight."

21 "Coo." I assume you meant cool.

22 Here we go, still on September 4th. "Call me
23 tonight so I can get u up to speed."

24 "Ok sounds good."

11:34:11AM 25 Okay. This is September.

1 "Gloves if u can." Now why are you mentioning
2 gloves again if they don't have anything to do with this
3 offense?

4 A. I'm pretty sure it's the same thing I'm thinking.
11:34:23AM 5 You're reading it over again, twice again.

6 Q. Okay. I'm sorry, I believe that's the same text. I
7 apologize to you.

8 Okay. "U good by 4." This is four in the
9 morning?

11:34:35AM 10 A. Yes, sir.

11 Q. So you're in San Antonio then?

12 A. Yes, sir.

13 Q. And are you with Big Mike when you're sending these
14 texts?

11:34:42AM 15 A. Yes, sir.

16 Q. So Big Mike is aware that you're sending these texts?

17 A. Yes, sir.

18 Q. And you're asking Scotty Pugh to come where you and Big
19 Mike are and to bring gloves?

11:34:54AM 20 A. No, sir.

21 Q. Okay. So let's see, we're now at September 5th,
22 4:05 a.m., "Call me as soon as your up."

23 Trying to I think you meant leave as early as
24 possible. You're talking about leaving to go to Kerrville; are
11:35:07AM 25 you not?

1 A. No, sir.

2 Q. You're going to go somewhere else?

3 A. Yes, sir.

4 Q. All right. So none of that -- your testimony is that
11:35:13AM 5 none of that had to do with this offense?

6 A. No, sir.

7 Q. I thought you said you were going to accept
8 responsibility today?

9 A. I am, sir.

11:35:24AM 10 Q. We'll see.

11 Okay. So you exchanged these text messages with
12 Scotty Pugh and Scotty Pugh joins you and Big Mike?

13 A. No, sir.

14 Q. Doesn't he get together with the two of you somewhere?

11:35:45AM 15 A. No, sir.

16 Q. What happens then?

17 A. We went to Scotty's house.

18 Q. You went to Scotty's house?

19 A. Yes, sir.

11:35:52AM 20 Q. You and Big Mike join Scotty?

21 A. Yes, sir.

22 Q. I'm sorry. All right. The three of you got together?

23 A. Yes, sir.

24 Q. And from that point on, did you begin planning this
11:36:03AM 25 trip to Kerrville to commit this robbery?

1 A. No, sir, we started drinking.

2 Q. Started drinking. All right. You had the vest with
3 you at the time?

4 A. Yes, sir.

11:36:13AM 5 Q. And Scotty had his vest with him at the time?

6 A. Yes, sir.

7 Q. Where did Scotty get his vest?

8 A. I have no idea.

9 Q. All right. So you just brought those down with you
11:36:22AM 10 coincidentally?

11 A. No, sir.

12 Q. Why did you bring them?

13 A. Are you saying them as plural or are you saying one,
14 sir?

11:36:30AM 15 Q. Well, did you bring your vest down with you just
16 coincidentally?

17 A. Yes, sir.

18 Q. Like you said, you didn't wear your vest around your
19 family and stuff?

11:36:40AM 20 A. You don't, but if I was in San Antonio, I wasn't just
21 staying with family the whole time.

22 Q. You knew that it was a violation of probation for you
23 to have body armor, didn't you?

24 A. No, sir.

11:36:50AM 25 Q. You know that now?

1 A. Yes, sir.

2 Q. All right. So you and Big Mike and your vest go to
3 Scotty Pugh's house?

4 A. Yes, sir.

11:37:00AM 5 Q. And I take it, did you ride in Big Mike's car?

6 A. Yes, sir.

7 Q. All right. Was the bag with the guns visible at that
8 time?

9 A. The bag itself?

11:37:09AM 10 Q. Yeah.

11 A. No, sir.

12 Q. You couldn't see it?

13 A. No, sir.

14 Q. In the trunk or something?

11:37:14AM 15 A. Yes, sir.

16 Q. All right. So you get with Scotty Pugh, you and Big
17 Mike and your vest and you three sit down and concoct this plan
18 to go rob a drug dealer -- what you think is a drug dealer?

19 A. No, sir.

11:37:30AM 20 Q. What happened?

21 A. Like I say, we started drinking.

22 Q. Well, at some point when you're drinking, you concocted
23 this plan, didn't you?

24 A. No, sir.

11:37:39AM 25 Q. Well, when did you concoct the plan?

1 A. I want to make sure I can talk.

2 Well, when we were there, he had already asked me
3 about the plan. He was saying -- he said, hey, I got a guy I
4 need to meet. This is prior to that day. I got a guy I need
11:37:54AM 5 to meet. Do you have somebody to help you. That's what he's
6 talking about in the text messages.

7 Q. So the August text messages was for you to recruit
8 Scotty Pugh to help you, but Scotty Pugh didn't know what it
9 was?

11:38:06AM 10 A. Right. Right. We both didn't know what it was at the
11 time. He just said he needed someone.

12 Q. So you knew something was up with Big Mike on August
13 25. He wanted you and a friend to get down here?

14 A. Yes, sir.

11:38:15AM 15 Q. But you didn't know what it was?

16 A. Yes, sir.

17 Q. But would you say that is the beginning of a plan at
18 least by Big Mike?

19 A. Well, no. Big Mike did have a plan, but it's not what
11:38:24AM 20 you're saying.

21 Q. So when did you learn that Big Mike's plan was going to
22 be that you were going to rob somebody?

23 A. Not until the morning of.

24 Q. Morning of? You're talking early in the morning hours?

11:38:36AM 25 A. Yes, sir.

1 Q. Well, this wasn't committed until about 3:00 in the
2 afternoon. That's a long time to think about it.

3 A. Yes, sir.

4 Q. So you learned early in the morning that Big Mike
11:38:45AM 5 wanted you and Scotty Pugh to come to Kerrville and rob
6 somebody?

7 A. No, sir.

8 Q. Then what were you going to do?

9 A. He said he needed to collect money. He said the guy
11:38:56AM 10 knew he owed him money.

11 Q. I got to tell you, Mr. Travis, I struggle a little bit
12 with the concept of collecting money. You've got body armor
13 and a pistol. That doesn't sound like collecting money to me.
14 Is that what you're telling the jury you did?

11:39:11AM 15 A. Yes, sir.

16 Q. You're saying that's your story, you're sticking to it?

17 A. You're asking which part?

18 Q. You're saying you didn't come down there to rob him;
19 you came down to collect money. And I'm saying, I've never
11:39:22AM 20 seen anybody collect money with a firearm before. I call that
21 robbery, don't you?

22 A. No, sir.

23 Q. All right. So that wasn't -- you just had those guns
24 with you, in case whoever this person you were going to collect
11:39:33AM 25 money for, legally decided to get upset with you and maybe

1 tried to keep you from collecting money from him, you brought
2 guns only to protect yourself; is that what you're saying?

3 A. No, it wasn't for protection. It was more if you have
4 a gun, the person would just -- you wouldn't have the -- there
11:39:49AM 5 wouldn't be any kind of argument or disagreement.

6 Q. You betcha. It's a show of force, isn't it?

7 A. Well --

8 Q. Sure it is. Come on, you can say that. It's a show of
9 force, isn't it?

11:39:58AM 10 A. Yes, sir.

11 Q. If you've got a gun in your hand, they're not going to
12 argue back?

13 A. Well, not in your hand but --

14 Q. Well, you had it in your hand, didn't you?

11:40:07AM 15 A. Not going into the house, no.

16 Q. You had it in your hand in the house, didn't you?

17 A. Not going into the house, no.

18 Q. I said in the house. You had it in your hand, didn't
19 you?

11:40:17AM 20 A. Yes, sir.

21 Q. All right. And you were prepared to use it as a show
22 of force?

23 A. No, not use it.

24 Q. Well, if you display it at all, in some respect you're
11:40:26AM 25 using it, aren't you?

1 A. I don't know if I can comment on it, like a marksman on
2 it, but I mean police officers carry weapons every day.

3 Q. You were not a police officer, were you?

4 A. Police officers going on duty carry weapons every day.

11:40:38AM 5 Q. You are not a police officer, are you?

6 A. All right, sir. Yes, sir.

7 Q. You were not doing anything to even besmirch an officer
8 that might be doing his job? I can't believe you're claiming
9 that.

11:40:48AM 10 A. I'm not claiming that.

11 Q. You're telling me you have the right to carry that
12 firearm?

13 A. Well, me as a felon, I know I shouldn't had a firearm.
14 Me as a resident of the United States, I'm allowed to carry a
11:41:00AM 15 firearm.

16 Q. No, you're not allowed to carry a firearm.

17 A. Not as a felon, no, sir.

18 Q. You're right. You're never allowed to carry a gun.

19 A. I already said that, yes, sir.

11:41:05AM 20 Q. And you knew that when you put that gun in your hand,
21 you weren't supposed to have it?

22 A. Yes, I did.

23 Q. Okay. Let me back up. I got ahead of myself.

24 Let's go back to your meeting where you and Big

11:41:20AM 25 Mike go to Scotty's house and you begin to plan your trip.

1 A. Yes, sir.

2 Q. Tell me what all was said by whom to put together this
3 plan to go rob the residence at the Madrona Drive.

4 A. Okay. Like I say, I said I was drinking a little bit,
11:41:44AM 5 but I still do remember some of the events that happened. We
6 were there and --

7 Q. Well, wait a minute. Let me stop you there just for a
8 second. You were very clear with the jury that you remember
9 everything that happened inside that house even to the point of
11:41:58AM 10 basically calling Amber a liar. Are you saying now you're not
11 clear on some of it?

12 A. Oh, no, no, no, I'm clear. I'm saying on parts of it,
13 I mean the traumatic things you've done, you know what
14 happened. You're there.

11:42:09AM 15 Q. You bet. When you're traumatized, you're going to
16 remember it, aren't you?

17 A. Well, yes. You should remember it, yes.

18 Q. You're going to get it right?

19 A. Yes.

11:42:17AM 20 Q. It's photographed in your mind forever?

21 A. Right. I agree with that.

22 Q. You agree?

23 A. I agree.

24 Q. So that's why Amber's story is pretty accurate, wasn't
11:42:27AM 25 it?

1 A. Not at all.

2 Q. Everybody other than Amber?

3 A. And other persons.

4 Q. Go back. Tell us about the plan.

11:42:33AM 5 A. Okay. Like I say, they were talking. Like I say,
6 hey, you know, I never had the meeting that he wanted me and
7 Scotty to go to the first time was for a meeting in San
8 Antonio.

9 Q. That he needed gloves for?

11:42:46AM 10 A. Yes, he said, hey, you know, I want y'all to come with
11 me. Nothing should happen, but I want to have some tracing
12 done. He knows that I know how to use a weapon. He knew
13 Scotty was a big guy so I mean he knew that, you know, me and
14 Scotty would get along. So I told Scotty about it. And he
11:43:02AM 15 said, yeah, I'm fine, you know, whenever I get off. So I asked
16 him, I said, hey, what about the 2nd or 3rd.

17 From there, me and Mike talk about it. He said,
18 hey, never mind. He goes, don't worry about it. We're going
19 to meet up, this and that. Then he canceled it. He said the
11:43:18AM 20 guy, you know, is already going to meet me. I don't need
21 y'all. It's going to be okay. And then he said that day, that
22 morning of, he goes, well, he never showed up with the money,
23 which would be I want to say the 4th that he said that or the
24 morning time of the 5th. He said the guy never showed up.

11:43:35AM 25 This is while we were sitting at Scotty's house. Scotty was

1 clueless as to what was happening at that point. And he just
2 kept saying over and over again and then he goes, well, hey,
3 Scotty, you know, if you want to pay me this money. And he
4 said, you know, I'll wipe your debt off. And I was just trying
11:43:50AM 5 to figure out what debt I had to him. And like I say, he was
6 giving me pills, so I mean I had a debt to him. It wasn't
7 financial gain for me other than -- well, I guess it was
8 financial if I had to give him money.

9 Q. Let me stop you right there and I want to regroup a
11:44:06AM 10 little bit.

11 A. Yes, sir.

12 Q. Make sure I understand you so far.

13 A. Yes, sir.

14 Q. At this point in time, this individual that lived in
11:44:13AM 15 Kerr County, in fact, had not paid Big Mike whatever money he
16 owed Big Mike?

17 A. Yes, sir.

18 Q. So Big Mike recruited you and Scotty to -- did you know
19 at that time you were going to follow him here?

11:44:26AM 20 A. Yeah, that's what -- that's what he said to follow him
21 here.

22 Q. Follow him here and you and Scotty were going to go
23 extract the money from this guy?

24 A. Well, what was supposed to happen was -- he said was,
11:44:38AM 25 you know, just wait for him to come outside, you know, and then

1 just run around him, tell him, you know, give me the money you
2 owe. And if anything, when you say give me the money that he
3 would know what that meant. Pretty much like -- I guess it was
4 supposed to be a scare tactic or a guarantee if you're going to
11:44:54AM 5 grab something out of it.

6 Q. Scare tactic is an understatement, wouldn't you agree?

7 A. No, sir.

8 Q. So in exchange for doing this, Scotty is going to get
9 some money?

11:45:06AM 10 A. Yes, sir.

11 Q. And you're going to get your drug debt wiped free?

12 A. Yes, sir.

13 Q. And Big Mike is hopefully going to get the money that
14 he's owed?

11:45:14AM 15 A. Yes, sir.

16 Q. And at what point in time did Big Mike bring out the
17 guns that you and Scotty were going to carry?

18 A. He gave us the guns when we were leaving Scotty's
19 house. He went to the trunk of his car.

11:45:30AM 20 Q. Did he advise you while y'all were having this plan
21 that he had some guns that he wanted y'all to carry with you as
22 I think a show of force?

23 A. Yes, sir.

24 Q. So somewhere in here you knew guns were going to be
11:45:44AM 25 involved?

1 A. Yes. As we were walking to the car, he said here are
2 some guns.

3 Q. Are you still in?

4 A. Yes, sir.

11:45:50AM 5 Q. Okay. And then you said Scotty had on body armor
6 during this as well as you?

7 A. Yes, sir.

8 Q. Where did his body armor come from?

9 A. I have no idea.

11:45:59AM 10 Q. I mean, did he have it there in the house apparently?

11 A. I guess, yes, sir. I don't know where he got it from.

12 Q. Okay. I'm up to where y'all were leaving the house. I
13 want to make sure I've got the plan.

14 A. Yes, sir.

11:46:16AM 15 Q. You and Scotty are going to arm yourselves and put on
16 body armor and you're going to follow Big Mike to Kerrville,
17 Texas, for the purpose of collecting money from Big -- for Big
18 Mike. You had guns with you to be able to intimidate, I guess?

19 MR. BROWN: Judge, I'm going to object to the
11:46:46AM 20 prosecutor testifying.

21 THE COURT: Overruled.

22 Q. (BY MR. MONROE) And you were going to follow Big Mike
23 down. He was going to show you which house it was?

24 A. Yes, sir.

11:47:01AM 25 Q. You and Scotty were going to go up to collect the

1 money, correct?

2 A. Yes, sir.

3 Q. You hoped that he would be outside?

4 A. He was outside.

11:47:10AM 5 Q. Well, not the entire time though?

6 A. Yes, sir.

7 Q. He went back in?

8 A. Yes, sir.

9 Q. But you had hoped that he would be outside the entire
11:47:17AM 10 time?

11 A. The thing was, we weren't supposed to go inside the
12 house, period. It was supposed to be him coming outside.

13 Q. Okay. And when you come down, you're going to collect
14 the money semi-forcefully if you had to from this guy that owed
11:47:35AM 15 Big Mike money?

16 A. What is semi-force?

17 Q. Well, you had guns with you. I mean, to me, if
18 somebody comes up to me with a gun, I got to tell you, if
19 they're demanding money from me, whether they say I owe them
11:47:49AM 20 money or not, I got to tell you I'm going to think I'm being
21 robbed and I think just about everybody in here is going to
22 think the same thing. So what do you call it?

23 A. Well, I'm just asking -- because I'm saying if I came
24 up and said you owe money and you would say, no, I don't owe
11:48:02AM 25 money, you would say you don't have to rob me, here is my

1 money. That's just me. I could be thinking differently, but
2 that's like I say, my opinion.

3 Q. Do the people you run around go do that with guns in
4 their hand?

11:48:12AM 5 A. No, sir.

6 Q. All right. You don't think that changes the complexion
7 of this entire event when you have a gun in your hand?

8 A. Well, I don't have people that do this kind of stuff so
9 I don't know -- you know, I don't know what you want me to say.

11:48:25AM 10 I'm sorry.

11 Q. Go back to the meeting. Y'all are leaving Scotty's
12 house and you're going to drive to Kerrville. Are you with me?
13 That's where we are right now.

14 A. Yes, sir.

11:48:36AM 15 Q. All right. You and Scotty get into Scotty's vehicle;
16 is that correct?

17 A. Yes, sir.

18 Q. And what kind of vehicle does Scotty drive?

19 A. It's a bluish color Crown Victoria, like a green,
11:48:49AM 20 bluish green.

21 Q. And what do you put into the vehicle with you?

22 A. Alcohol.

23 Q. Alcohol and what else?

24 A. The bag of guns.

11:48:57AM 25 Q. The bag. And by this time, you knew what was in the

1 bag?

2 A. Yes, sir.

3 Q. You knew it was a violation of your probation to have
4 it?

11:49:04AM 5 A. Yes, sir.

6 Q. What else did you put in the bag?

7 A. Put in the bag?

8 Q. I mean, what else did you put in the car? Was there
9 anything else other than you and Scotty and the bag?

11:49:16AM 10 A. No, sir.

11 Q. And alcohol?

12 A. No, sir.

13 Q. Okay. And Big Mike gets into Big Mike's car?

14 A. Yes, sir.

11:49:21AM 15 Q. And what kind of car does Big Mike drive?

16 A. It was a red -- I want to say a little red sports car.
17 I don't know the exact model number.

18 COURT REPORTER: I'm sorry. I can't hear you.

19 THE WITNESS: It was a red sports car.

11:49:32AM 20 Q. (BY MR. MONROE) You understand I'm asking these

21 questions because this is the first time anybody at this
22 table -- yesterday was the first time anybody had ever heard of
23 Big Mike. You recognize that, don't you?

24 MR. BROWN: I'm going to object, Your Honor.

11:49:49AM 25 That's not true. I have discovery here where the person that

1 was inside the house mentions Big Mike in his own statement.
2 That's a misstatement in front of this jury.

3 THE COURT: It sounded like more of a statement
4 than a question. Let's have a question.

11:50:04AM 5 MR. MONROE: All right.

6 Q. (BY MR. MONROE) This is the first time it's been
7 mentioned that you followed somebody down here named Big Mike
8 who helped you plan this event. That's correct; is it not?

9 A. This is the first time I spoke.

11:50:29AM 10 Q. Okay. What's Big Mike's telephone number?

11 A. I don't have -- I don't know.

12 Q. You don't have it?

13 A. I don't know.

14 Q. Is it in your cell phone?

11:50:38AM 15 A. Probably so.

16 Q. Okay. Let's get that cell phone.

17 I'm going to hand you what's been marked as
18 State's Exhibit 46 (sic).

19 A. Yes, sir.

11:51:40AM 20 Q. I ask if you can identify that?

21 A. That's my cell phone.

22 Q. All right. Do you have any objection to us turning on
23 that phone and gathering the information out of it?

24 A. What information do you need out of it?

11:51:54AM 25 Q. Big Mike's phone number.

1 A. I'm going to ask why do you need his phone number?

2 Q. I want to see if his phone number is on there. Do we
3 have permission to look at your phone?

4 A. No, sir.

11:52:02AM 5 Q. We do not?

6 A. No, sir.

7 Q. But you're accepting responsibility here today; are you
8 not?

9 A. Yes, sir. I am accepting --

11:52:08AM 10 Q. But we can't look at your cell phone?

11 A. I am accepting responsibility.

12 MR. MONROE: We ask for permission to turn the
13 phone on. Will somebody come up here and let's turn the phone
14 on.

11:52:20AM 15 THE COURT: I'll tell you what. Let's go ahead
16 and take the lunch break now. We'll talk about the phone a
17 little bit on this break.

18 Ladies and Gentlemen, I need you to be back here
19 at 1:15, so if you'll go with the bailiff please.

11:52:36AM 20 THE BAILIFF: All rise for the jury.

21 (Jury not present).

22 THE COURT: Before I forget, let's double-check.
23 I thought I had admitted a 46, but let's take a look at that
24 and so don't forget for us to make sure that we don't have a
11:53:15AM 25 duplication.

1 So are you going to offer -- it hasn't been
2 offered yet.

3 MR. MONROE: It has been offered and he has not
4 given us permission to search the phone, so I need to get a
11:53:27AM 5 search warrant and I'm going to do that right now and hopefully
6 he'll rethink and not make us do all of that, but that's his
7 call. And then we'll get the information off the phone if the
8 Court considers and entertains granting it.

9 THE COURT: I'm not going to put you on the spot,
11:53:41AM 10 Mr. Brown on the record, but you might want to visit when we
11 take this break and see what you're going to have to do about
12 the cell phone.

13 MR. BROWN: Okay.

14 THE COURT: All right. So let's take a break and
11:53:52AM 15 we'll start at 1:15. Thank you.

16 (Lunch recess).

17 THE COURT: Travis, if you want to come back to
18 the witness stand, the jurors are about to come in.

19 THE BAILIFF: All rise for the jury, please.

01:15:56PM 20 (Jury present).

21 THE COURT: Everyone have a seat. I think Mr.
22 Monroe, you were cross-examining Mr. Travis and you may
23 continue.

24 MR. MONROE: Yes, Your Honor. Thank you.

01:16:40PM 25 Q. (BY MR. MONROE) Mr. Travis, let's back up a little bit.

1 A. Yes, sir.

2 Q. Get back to where we were planning this event. We're
3 at Scotty Pugh's house, as I understood you?

4 A. Yes, sir.

01:16:53PM 5 Q. And it's you, Scotty and Big Mike?

6 A. Yes, sir.

7 Q. Anybody else involved?

8 A. No, sir.

9 Q. Anybody else present?

01:17:00PM 10 A. No, sir.

11 Q. No one else had anything to do with this?

12 A. No, sir.

13 Q. All right. When you came down from Arlington to San
14 Antonio, did you drive yourself or somebody else came back with
01:17:32PM 15 you?

16 A. Somebody else drove me.

17 Q. Who drove you?

18 A. Chinnaprat.

19 Q. What's his name again?

01:17:44PM 20 A. Chinnaprat Intong.

21 COURT REPORTER: I'm sorry, I can't hear you.

22 THE WITNESS: Chinnaprat.

23 Q. (BY MR. MONROE) Can you spell the last name?

24 A. I'm sorry. I-N-T-O-N-G.

01:17:59PM 25 Q. And who is -- can I call him Gino?

1 A. That's fine.

2 Q. Who is Gino?

3 A. He's a coworker.

4 Q. He worked at the Olive Garden with you?

01:18:11PM 5 A. Yes, sir, and the Cheesecake Factory.

6 Q. Where did Gino go while all this stuff was going on?

7 A. He was staying at Erica's Gratch's house.

8 Q. What is Erica's last name?

9 A. Gratch.

01:18:35PM 10 Q. Can you spell that?

11 A. G-R-A-T-C-H.

12 Q. Does she live in San Antonio?

13 A. Universal City area.

14 Q. What does she do for a living?

01:18:46PM 15 A. I'm not 100 percent positive.

16 Q. How might we reach Erica if we want to try to track her
17 down?

18 A. I don't know really.

19 Q. And Gino, how might we reach him?

01:18:56PM 20 A. You can probably call him on his cell phone number.

21 Q. Do you know that off the top of your head?

22 A. No, I don't.

23 Q. Okay. So the three of you get into two vehicles?

24 A. Yes, sir.

01:19:11PM 25 Q. From Scotty's house?

1 A. Yes, sir.

2 Q. And that's in Universal City?

3 A. Yes, sir.

4 Q. And then you drive to Kerrville?

01:19:19PM 5 A. Yes, sir.

6 Q. When you get into the car at Scotty's house, you and
7 Scotty are already wearing body armor?

8 A. Yes, sir.

9 Q. All right. Are the guns in your hands or are they
01:19:33PM 10 still in the bag?

11 A. They're still in the bag.

12 Q. All right. You drive to Kerrville and you are
13 following Big Mike?

14 A. Yes, sir.

01:19:40PM 15 Q. Are you continuing to visit with him on the phone?

16 A. Who is that?

17 Q. Big Mike?

18 A. Yes, sir.

19 Q. Okay. And is it you talking to Big Mike on the phone
01:19:49PM 20 or is it Scotty talking to Big Mike?

21 A. I believe it's on the speakerphone.

22 Q. All right.

23 A. Yes, sir.

24 Q. And do you know whose phone it was?

01:19:57PM 25 A. It was my phone.

1 Q. Okay.

2 A. Yes, sir.

3 Q. What is going to be the plan then? What have y'all
4 decided if everything goes perfectly?

01:20:07PM 5 A. Yes, sir.

6 Q. What are y'all going to do when you get to Kerrville?

7 A. Pretty much we were going to -- he wanted us to wait
8 for him to come outside, but when we drove by, he was already
9 outside. So I was on the speakerphone with him and he said,

01:20:21PM 10 that's him. And then we go, so what do you want to do. He
11 said, y'all go get him. So we turned around -- we passed the
12 house when we saw him. We turned around and drove into the
13 driveway.

14 Q. Did you only drive by the house one time or did you
01:20:35PM 15 drive by more than once?

16 A. No, sir, just once.

17 Q. Okay. Did Mike drive by the house also?

18 A. Yes, sir, he did.

19 Q. Did he only drive by one time?

01:20:45PM 20 A. I'm not sure because we were out of the vehicle.

21 Q. Okay. Were you within eyesight with Big Mike this
22 entire time? I mean, where you can see his car out in front of
23 you?

24 A. Yes, sir. Driving by, yes, sir.

01:20:58PM 25 Q. So you drive by and somebody is out on the porch?

1 A. Yes, sir.

2 Q. And when you drive by, whoever is out on the porch goes
3 into the residence?

4 A. Yes, sir.

01:21:09PM 5 Q. And what did you all decide to do then?

6 A. It was more of once we saw him outside, he was like go
7 get him, so that's when we just turned around and got out of
8 the car. The guy, I don't believe he was completely in the
9 house yet. I'm not 100 percent positive, but I think he closed
01:21:28PM 10 the door and then Scotty kicked it in as he was closing it.

11 Q. So what did "go get him" mean to you?

12 A. Just go get him, just like don't let him get away.
13 Like went off.

14 Q. Well, if he went into the house, how were you going to
01:21:42PM 15 get him out?

16 A. Go after him. We had to go in the house.

17 Q. So you had to go in the house?

18 A. Yes, sir. Yes, sir.

19 Q. So the plan had changed?

01:21:50PM 20 A. Yes, sir.

21 Q. All right. So where did you park your vehicle?

22 A. Scotty pulled up right in front, kind of diagonal,
23 facing the door.

24 Q. All right. Parked the vehicle. And when did you
01:22:03PM 25 retrieve the guns?

1 A. The guns -- as he said go get them because we had to
2 drive down the street to turn around, we took those out as he
3 was turning around.

01:22:16PM

4 Q. Okay. So when you got out of the vehicle, both you and
5 Scotty had the pistols in your hands?

6 A. Yes, sir.

7 Q. You were carrying a dark colored Glock; is that
8 correct?

9 A. Yes, sir.

01:22:24PM

10 Q. The .45?

11 A. Yes, sir.

12 Q. And Scotty was carrying the stainless nine-millimeter?

13 A. Yes, sir.

14 Q. And both of them were loaded?

01:22:32PM

15 A. Yes, sir.

16 Q. When you went up to the door, what did either you or
17 Scotty do?

18 A. Scotty kicked the door at that time.

19 Q. Scotty kicked the door in at that time?

01:22:42PM

20 A. Yes, sir.

21 Q. Did you tell him to do that or did he do it on his own?

22 A. No, sir, he just did it.

23 Q. Did that surprise you?

24 A. No, because when we were going up there, he didn't go

01:22:51PM

25 and try to grab the handle. I mean, it was all happening at

1 once.

2 Q. And you're still at this point in time in furtherance
3 of trying to collect the debt for Big Mike?

4 A. Yes, sir.

01:23:01PM 5 Q. So both of you voluntarily entered into the habitation?

6 A. Yes, sir.

7 Q. You did not have permission to go in?

8 A. No, sir, I did not.

9 Q. All right. And you went in there with the intention,
01:23:10PM 10 and you can call it to collect a debt or whatever you want to,
11 but you were going to obtain money from whoever was in there?

12 A. Yes, sir.

13 Q. And you were prepared to have your firearms with you as
14 a show of force?

01:23:22PM 15 A. Yes, sir.

16 Q. To intimidate him whoever it was?

17 A. Yes, sir.

18 Q. Into giving you the money?

19 A. Yes, sir.

01:23:27PM 20 Q. Did you know anything about who it was you were going
21 to see?

22 A. No, sir.

23 Q. All right. You said you walked in the door and Scotty
24 went to the right?

01:23:42PM 25 A. Yes, sir.

1 Q. And you went to the left?

2 A. Yes, sir.

3 Q. All right. Scotty you said -- I was watching you with
4 the little diagram -- stood basically at the entrance of the
01:23:54PM 5 hallway there where it would go back to where --

6 A. Yes, sir. Yes, sir, he was in the hallway.

7 Q. All right. And you went into the living area towards
8 the other door --

9 A. Yes, sir.

01:24:02PM 10 Q. -- of the bedroom?

11 A. Yes, sir.

12 Q. What was going on in that other bedroom that you went
13 towards?

14 A. That's where the gentleman had ran. I saw -- I saw the
01:24:12PM 15 woman and the gentleman both go different ways. We saw them in
16 the house.

17 Q. So you ran in there and shut the door behind you?

18 A. Yes, sir, I did.

19 Q. And did you check the door to see if it was locked?

01:24:24PM 20 A. No, I did not.

21 Q. All right. Are you exchanging words with him?

22 A. Yes, I was -- well, I wasn't exchanging words, but I
23 was knocking on the door. He didn't respond.

24 Q. And were you politely knocking on the door?

01:24:38PM 25 A. No, sir, I was not.

1 Q. And were you using the expletives that Amber described
2 you using?

3 A. I'm sorry, I don't know what you mean.

4 Q. The profanity. The F words?

01:24:50PM 5 A. No, sir.

6 Q. You didn't use any of that profanity?

7 A. No, sir.

8 Q. So she made that up?

9 A. I don't remember or recall her saying me saying
01:24:57PM 10 anything to the gentleman in the door.

11 Q. Were you using expletives at any point in there?

12 A. No, sir.

13 Q. So she made that up?

14 A. Yes, sir.

01:25:05PM 15 Q. All right. She mentioned that somebody went and opened
16 the freezer. Did that happen?

17 A. No, sir.

18 Q. Okay. Didn't do that. Okay. So you go up to the door
19 and you knock on it?

01:25:19PM 20 A. Pretty much knock or I was hard knocking. Let's say
21 more beating on the door than just knocking.

22 Q. Banging on the door?

23 A. Pretty much, yes, sir.

24 Q. All right. What did you say?

01:25:30PM 25 A. I was like, I tell him, open the door, you know what I

1 am here for. I'm just coming to get the money. Open the door.

2 Q. And what did you think was in there?

3 A. I was already told that he was going to have the money
4 there, that it was going to be in that room, so I already knew
01:25:47PM 5 that he should have it in there and I figure that's why he ran
6 into the room.

7 Q. And who told you that?

8 A. Big Mike.

9 Q. And what did Big Mike tell you about what he thought
01:25:59PM 10 you were going to find as far as the money in the room?

11 A. He just said that he had owed him money over the
12 past -- I don't want to say the exact date because I don't
13 remember how long it was. So he just said he owed him a sum of
14 money, that he knows how much it is, so he is either going to
01:26:16PM 15 give that to you or take it from him.

16 Q. So as far as you're concerned at this point, you're
17 still in the middle of your three-person plan with yourself,
18 Scotty Pugh and Big Mike to extract money from the owner of
19 this residence by force if necessary?

01:26:30PM 20 A. Yes, sir.

21 Q. Okay. Did the person in the room respond to you in any
22 way?

23 A. No, sir, he was quiet.

24 Q. All right. What's the next thing you recall happening?

01:26:39PM 25 A. That's when I heard the lady scream. She -- first, she

1 said, give him whatever he wants and then she screams and I'm
2 pretty sure -- I don't want to say who said it, but I think
3 Scotty told her to lay down, like -- like, that's why I was
4 trying to look to see what the commotion was and that's when I
01:27:00PM 5 saw the little boy. And I told, Scotty, tell her to go back to
6 the room.

7 Q. You never went down that hall?

8 A. Not once.

9 Q. Do you think she dreamed that or what? I mean, she was
01:27:20PM 10 pretty specific you were the one that went down the hall?

11 A. I didn't, sir.

12 Q. Okay. You heard her screaming back in the room. What
13 is the next thing you did?

14 A. That's when I turned to go knock on the door again.
01:27:41PM 15 That's when I was beating on the door and that's when the
16 gunshot came through the door.

17 Q. Okay. The gunshot actually came through the door?

18 A. Yes, sir.

19 Q. Made a hole in the door?

01:27:50PM 20 A. Yes, sir.

21 Q. Did I hear you say the bullet fragments struck you?

22 A. No.

23 Q. Hold on. So it came through the door and then what did
24 you do?

01:28:00PM 25 A. I paused and I took a step back. I looked at Scotty

1 because I just told him to, you know, send the kid and the
2 woman in the room. I said send them to the room. And I looked
3 at him and he had like a shot look, like have you been hit
4 because he can see what I saw, and that's why I suppressed
01:28:18PM 5 fire.

6 Q. You suppressed fire. Now you're in someone elses'
7 house?

8 A. Yes, sir.

9 Q. That you were not invited into?

01:28:25PM 10 A. Yes, sir.

11 Q. You're wearing body armor?

12 A. Yes, sir.

13 Q. You've got a gun in your hand?

14 A. Yes, sir.

01:28:32PM 15 Q. You're banging on a door?

16 A. Yes, sir.

17 Q. What made you think you had the right to return fire?

18 A. At -- honestly I'm sorry I did. It just -- it was kind
19 of just, it's hard to say, but a bang bang situation where it
01:28:48PM 20 just happened. I wish it would have never happened but that's
21 just my way of getting out of situations.

22 Q. You're blaming that on your PTSD?

23 A. I don't have --

24 Q. On post-traumatic stress disorder?

01:29:03PM 25 A. No, sir, I blame it on the alcohol and the drugs.

1 Q. So you turned around in response to after someone had
2 fired a weapon because you've broken into their home and you're
3 armed. You kicked the door in, and I assume this person
4 probably didn't know who had actually kicked the door in. Do
01:29:25PM 5 you think he knew?

6 A. No, sir.

7 Q. All right. So he doesn't know who is at the door. And
8 so you hear gunshots so you think that entitles you to fire
9 back?

01:29:33PM 10 A. No, sir, I just -- I can't explain it, but I just fired
11 back. It's wasn't like a -- it was like an instant. I wish it
12 didn't happen, but it did.

13 Q. Sounds like a plan reflex is what it sounds to me, but
14 you're saying you don't do this, so --

01:29:47PM 15 A. Plan reflex?

16 Q. I mean, yeah, when --

17 A. No, sir. Like I say, it just happened. It wasn't
18 something I had planned to do.

19 Q. Okay. And then so when you suppressed fire, you fell
01:30:06PM 20 into your military training at that time, I take it?

21 A. I'm not going to say that's what that was, no, sir.

22 Q. I wouldn't think training would do it in that respect?

23 A. No.

24 Q. And you shot how many times?

01:30:18PM 25 A. Two times.

1 Q. Just two times?

2 A. Yes, sir.

3 Q. Where did you shoot?

4 A. I thought I shot both at the -- towards the door. Like
01:30:31PM 5 I say, I saw otherwise that one hit beside the wall after the
6 fact; but when the situation happened, that's where I thought I
7 had shot.

8 Q. Okay. So you only fired twice. You're sure about
9 that?

01:30:43PM 10 A. Yes, sir, because after the shot that the clip fell
11 out, the spring broke so I had to stop and pick up the bullets.
12 And you can't reload it and put it back in after the spring is
13 broken.

14 Q. Okay. You hear a gunshot, you fire back two times and
01:31:10PM 15 the other witnesses have testified three times. That's a
16 mistake in your opinion?

17 A. Yes, sir.

18 Q. What did you do then?

19 A. Like I say, the clip fell out and all the bullets fell
01:31:21PM 20 out so I picked them up and put them in my pocket. At that
21 time, I could hear noise going on, but then I saw someone run
22 across the front door. At that point --

23 Q. You mean outside the house?

24 A. Yes, sir, the front door. At that point, me and Scotty
01:31:36PM 25 ran out the door.

1 Q. What did you and Scotty do when you left?

2 A. We got back in the vehicle.

3 Q. All right.

4 A. Yes, sir.

01:31:43PM 5 Q. And then when you got back in the vehicle, where did
6 you go?

7 A. We turned -- we backed out and pulled forward and like
8 I say, that's when we saw the police officer.

9 Q. All right. And did you basically run from the police
01:32:02PM 10 officer?

11 A. Yes, sir.

12 Q. Okay. You evaded?

13 A. Yes, sir. Evaded, yes, sir.

14 Q. And whose idea was it when you were running from the
01:32:13PM 15 police officer to discard the weapons?

16 A. It was mine. Before we -- I told him before anything
17 that we needed to -- we can't get out with the weapons.

18 Q. And was part of your reason for discarding the weapons,
19 you didn't want the reaction from the police to see you with
01:32:30PM 20 the weapons?

21 A. Yes, sir.

22 Q. And also maybe the weapons wouldn't be found?

23 A. No, sir. I think pretty much the police officer was
24 behind us when I threw them out, so he should have been able to
01:32:41PM 25 see where they were at.

1 Q. You didn't tell him where they were?

2 A. They didn't ask me.

3 Q. You didn't tell them on the scene?

4 A. No, I'm sorry, I did not.

01:32:47PM 5 Q. You didn't tell him on the scene where your body armor
6 was?

7 A. No, sir.

8 Q. You didn't tell him on the scene what you had been
9 doing when they asked what you were doing there and you said I
01:32:59PM 10 was just walking around?

11 A. No, sir.

12 Q. You didn't tell them at the scene?

13 A. No, sir.

14 Q. You weren't accepting responsibility then?

01:33:02PM 15 A. No, sir.

16 Q. You threw them both out the window?

17 A. Yes, sir.

18 Q. Did you discharge the weapon from inside the vehicle?

19 A. No, sir.

01:33:22PM 20 Q. Where did the .45-caliber shell casing come from that
21 was found inside the vehicle?

22 A. Sir, it might have fell out of my pocket when I picked
23 it up because I know, like I said, I didn't have any inside, so
24 possibly when the shell was on the ground, I picked it up and
01:33:38PM 25 put in my pocket, but I don't know why it would be in the

1 vehicle.

2 Q. You don't have an explanation for that?

3 A. No, sir, I don't.

01:33:43PM

4 Q. You're sure you didn't discharge the weapon inside the
5 vehicle?

6 A. I'm positive.

7 Q. So if somebody said that they felt like you were firing
8 the weapon back out of the vehicle as y'all fled, that's just
9 not right?

01:33:52PM

10 A. Yes, sir.

11 Q. You said in your direct examination -- let me see if I
12 can find it -- when you looked at your own video of your
13 statement that you couldn't explain why you were that way?

14 A. Yes, sir.

01:34:25PM

15 Q. The fact of the matter is you lied your tail off in
16 that video, didn't you?

17 A. Yes, sir.

18 Q. I mean, you lied from the beginning to the end other
19 than your name?

01:34:37PM

20 A. Well, after watching it, yes, I did, because that's not
21 what happened.

22 Q. You weren't taking responsibility for your behavior
23 then, were you?

24 A. No, sir, I definitely was not.

01:34:49PM

25 Q. You're saying it was the alcohol and the drugs that

1 caused you to do that?

2 A. Yes, sir.

3 Q. Now, it's my understanding that you didn't even think
4 you had a problem with alcohol until a couple of months ago?

01:35:00PM 5 A. Yes, sir.

6 Q. So you've now decided retrospectively that it was the
7 alcohol and the drugs that caused you to do that?

8 A. Yes, sir.

9 Q. When was the last time you had a drink of alcohol?

01:35:16PM 10 A. My -- I wouldn't be able to tell you the exact date,
11 maybe four or five weeks ago.

12 Q. Four or five weeks ago?

13 MR. BROWN: I think he said four or five months
14 ago.

01:35:33PM 15 Q. (BY MR. MONROE) Four or five nights ago?

16 A. No, no, no, no. Actually I can't recall. It was
17 before I started taking my medication, so whenever that was. I
18 don't --

19 Q. So you were continuing to drink until then?

01:35:44PM 20 A. Right.

21 Q. Let's talk a little bit about the Xanax. When did you
22 first start taking Xanax?

23 A. Right when I was in the military, about my last couple
24 of weeks in.

01:35:56PM 25 Q. And did you have a prescription for Xanax?

1 A. No, sir, I did not.

2 Q. You know it's a controlled substance?

3 A. Yes, sir. Yes, sir.

4 Q. All right. So you knew well at that point in time. So

01:36:07PM 5 you were taking Xanax by the time you came back from Iraq?

6 A. No, no, not by the time. After I was back from Iraq.

7 Q. You started taking Xanax after you got here, back to
8 stateside?

9 A. Yes, sir.

01:36:19PM 10 Q. Not when you were over there?

11 A. No, sir.

12 Q. Well, were you still in the military when you started
13 taking Xanax?

14 A. Yes, sir.

01:36:27PM 15 Q. All right. So that would have been in 2003, late 2003
16 or early 2004 when you got back?

17 A. 2004. It was my last two weeks, last two weeks before
18 I was out completely.

19 Q. You started taking Xanax and how did you acquire your
01:36:45PM 20 Xanax?

21 A. Off the street.

22 Q. And Big Mike apparently?

23 A. Not in the beginning, no.

24 Q. Not in the beginning?

01:36:53PM 25 A. No, sir.

1 Q. Well, when did you start acquiring your Xanax from Big
2 Mike?

3 A. I wish -- I don't have an exact date for it. 2000 -- I
4 really don't have an exact date, I'm sorry, of that exact year.

01:37:16PM 5 Q. You got in trouble in Arizona in what year?

6 A. 2009, I want to say it was.

7 Q. Were you using Xanax at that time?

8 A. Yes, sir.

9 Q. Acquiring it illegally?

01:37:29PM 10 A. Yes, sir.

11 Q. And so you know -- okay. When were you put on
12 probation in Arizona?

13 A. I'm not positive. I had already moved to Dallas, so I
14 want to say it was maybe 2010.

01:37:48PM 15 Q. Okay. You got in trouble in Arizona, returned back to
16 Texas and when you got put on probation, your probation was
17 transferred to Texas under courtesy supervision?

18 A. Yes, sir.

19 Q. At the time your probation was transferred to Texas and
01:38:01PM 20 when you began probation here in Texas, you were using Xanax?

21 A. Yes, sir.

22 Q. And you continued to use Xanax?

23 A. Yes, sir.

24 Q. You never told your probation officer that you were
01:38:11PM 25 using Xanax?

1 A. No, sir.

2 Q. Now, where was your daughter living at that time?

3 A. 2000 and -- when I was in Dallas?

01:38:25PM

4 Q. When you came back from Arizona and got put on
5 probation in Texas, where was your daughter living?

6 A. She was living in San Antonio.

7 Q. How often would you come to see your daughter?

8 A. I would come at the beginning almost every week.

01:38:36PM

9 Q. And you never got permission from your probation
10 officer to come back to San Antonio?

11 A. When I got back, I wasn't directly on probation until
12 -- well, I guess you're right. No, I didn't.

13 Q. And you understand now every time you left that county,
14 you violated your probation?

01:38:49PM

15 A. Yes, sir.

16 Q. When was the last time you took a Xanax?

17 A. Maybe about two months.

18 Q. About the same time you stopped drinking?

01:39:09PM

19 A. No, sir, I stopped the Xanax earlier. I was seeing a
20 counselor and he was telling me about, you know, if I was going
21 to stop and what I needed to do and so I did that two months
22 prior.

23 Q. Did I also hear you say and I may have misunderstood
24 you, you were also taking pain medication?

01:39:25PM

25 A. That was just in the beginning when I had just got out

1 of the military. They prescribed me pain medication. I had
2 a -- I felt like I had something dislocated in my back, and
3 they said it was a strain so they gave me medication and a
4 shot.

01:39:39PM 5 Q. Okay. You said that the body armor that you had gotten
6 from the military that you had sold?

7 A. No, sir.

8 Q. I thought you said that you had gotten some when you
9 got out of the military and you took it with you and you later
01:39:54PM 10 sold it?

11 A. Say it again, I'm sorry. In the military everything
12 that was issued as Air Force, I turned it in.

13 Q. You didn't have body armor?

14 A. No, not in the military. No, sir.

01:40:06PM 15 Q. Somebody thought you had retained the body armor from
16 the military, so that's not right?

17 A. No, sir.

18 Q. So when did you acquire the body armor from Kristie?

19 A. Honestly it was right before I moved to the Dallas
01:40:22PM 20 area, so I'm thinking that's like, I want to say 2009, 2010.

21 Q. Who is Kristie?

22 A. Kristie?

23 Q. Yes.

24 A. It's an old girlfriend.

01:40:32PM 25 Q. What's her last name?

1 A. Waite.

2 Q. Spell it please.

3 A. W-A-I-T-E. I'm trying to think.

4 Q. Is it spelled with a C or K?

01:40:48PM 5 A. It's with a K.

6 Q. Where did Kristie get the body armor?

7 A. Actually I really didn't -- I don't know where she got
8 it from exactly. She told me I could have it when I asked her
9 for it.

01:41:02PM 10 Q. And what is Kristie's phone number?

11 A. It's -- I'm not 100 percent positive, but it's a 704
12 number. I don't know.

13 Q. Where is she now?

14 A. She's in Ohio.

01:41:45PM 15 Q. I guess I'm a little -- I guess I don't understand.

16 A. Yes, sir.

17 Q. Why did you feel like you needed body armor?

18 A. I just always just kind of worry, just -- I never knew
19 what was going to happen, so I was just very nervous so I just
01:42:10PM 20 felt before anything could happen to me, I'm just going to be
21 protected.

22 Q. You agree with me that's pretty rare. Not too many
23 people wear body armor that aren't in law enforcement?

24 A. I'm not positive. I can't speak for everybody. No,
01:42:26PM 25 sir. I'm guessing, no.

1 Q. When you fired the gun at the door in the residence of
2 Wylie Wilkinson, did you know for a fact who all was in that
3 room?

4 A. No, sir.

01:42:47PM 5 Q. Did you know how many people were in that room?

6 A. No, sir.

7 Q. Did you know where anybody who was in that room might
8 have been positioned at the time you fired that weapon?

9 A. Yes, sir.

01:42:59PM 10 Q. Now, how did you know that?

11 A. Because you can hear him when he moved to the left.

12 Q. But you didn't know if anybody else was in there?

13 A. No, no, you said him. I didn't know anybody else was
14 in there.

01:43:10PM 15 Q. So you think you knew where he was?

16 A. Yes, sir.

17 Q. But as far as anybody else was in there, you didn't
18 have any idea?

19 A. Yes, sir.

01:43:17PM 20 Q. So when you fired the gun into the door, you were
21 prepared to accept the consequences of anybody being injured as
22 a result of your gun fire; is that correct?

23 A. No, sir.

24 Q. You would agree with me --

01:43:28PM 25 A. Yes, sir.

1 Q. -- that that was an act clearly dangerous to human
2 life?

3 A. Yes, sir.

01:43:36PM

4 Q. And that the gun you had in your hand was capable of
5 inflicting serious bodily injury or death?

6 A. Yes, sir.

7 Q. And whether you feel like you were justified or not,
8 you used that weapon in furtherance of your attempt to collect
9 money from the owner of that house?

01:44:00PM

10 A. No, sir.

11 Q. You used the weapon to defend yourself?

12 A. No, I was using the weapon to get out of the house.

13 Q. To defend yourself. You explained that -- you already
14 said that you took it so if someone saw you to intimidate them.
15 So what's the big deal about this?

01:44:12PM

16 A. No, sir. No, you're right, about the intimidation
17 part. But I'm saying the firing was to get out of the house,
18 not to stay and get money after the firing.

19 Q. You said you were aware when you got out of the service
20 that there were things that were available to you through the
21 VA?

01:44:31PM

22 A. Yes, sir.

23 Q. But you chose to not avail yourself of any of that?

24 A. I didn't feel like I needed it.

01:44:50PM

25 Q. Let's talk about say from September 5, 2013 -- let's go

1 back a year.

2 A. Yes, sir.

3 Q. That period, how much were you drinking a day?

4 A. Based off of liquor or beer, I'd say that if I wasn't
01:45:11PM 5 working, between 7 and 5, I'd get the small, about this size of
6 Bacardi. I don't know. I don't know the exact size.
7 Sometimes I would get the 1.75 liter of Bacardi.

8 Q. How long would that last you?

9 A. A day.

01:45:33PM 10 Q. Drink it all in one day?

11 A. Uh-huh, a day.

12 Q. Would you drink beer on top of that?

13 A. Usually not. Usually by the time I drink it, I pass
14 out. Other than that --

01:45:40PM 15 Q. Then how much Xanax were you taking each day?

16 A. Usually like I say, if I'm working, I'll take about
17 four throughout the day. If not, maybe one or two.

18 Q. You took them every day?

19 A. Yes, sir.

01:45:57PM 20 Q. So two to four Xanax every day?

21 A. Yes, sir.

22 Q. In addition to a liter, a liter and a half of Bacardi?

23 A. Yes.

24 Q. Every day?

01:46:13PM 25 A. Yes, sir.

1 Q. And you knew that every time you took the Xanax, you
2 violated the probation?

3 A. I didn't think of it, but I did sign the paper saying
4 no drugs, yes, sir.

01:46:22PM 5 Q. The truth of the matter is that you violated your
6 probation by having anything to do with Big Mike after that,
7 too, didn't you? You know that, don't you?

8 A. Yes.

9 Q. Avoid persons or places of disreputable or harmful
01:46:37PM 10 character, you knew that?

11 A. Yes, sir.

12 Q. So you were in violation of your probation daily and
13 you were aware that you were in violation of your probation
14 daily?

01:46:46PM 15 A. Yes, sir.

16 Q. How did you pass the UA's?

17 A. I knew that it took about a couple of days to get it
18 out of my system.

19 Q. So you manipulated the system?

01:46:55PM 20 A. Yes, sir, I did. Yes, sir.

21 Q. Just out of curiosity, how -- I heard I think it was
22 Doctor Roache describing the vernacular phrase for Xanax as a
23 Xanax bar, and Xanax pills are kind of oblong shaped pills; are
24 they not?

01:47:19PM 25 A. Yes, sir.

1 Q. And one pill would be called a Xanax bar; is that
2 correct?

3 A. Yes, sir.

4 Q. How much would a bar of Xanax cost?

01:47:27PM 5 A. For me, like the amount I would get about \$2 a pill.

6 Q. \$2 a pill?

7 A. Yeah, 2.50 is based I guess on the amount that they
8 had, I guess you want to say.

9 Q. How much the drug dealer had at that time?

01:47:42PM 10 A. I guess. I guess that's the reason why it fluctuated.

11 Q. Did Mike give you a better deal on Xanax than he
12 would --

13 A. Yes. When I came to town, yes, he would.

14 Q. What else did Big Mike sell?

01:47:55PM 15 A. He sold me -- like I say, he sold me prescription
16 pills.

17 Q. Did he sell other drugs, too?

18 A. Not that I know of. Not that I've seen.

19 Q. Happen to have Xanax and sold them to you though?

01:48:09PM 20 A. Yes, sir.

21 Q. And he sold enough of them to you that he felt like you
22 owed him money?

23 A. I -- I want to say yes, but I think it was because he
24 was giving me some that day of, and before he gave me some, so
01:48:24PM 25 I'm thinking that's what he was talking about.

1 Q. So a debt?

2 A. Yes, sir.

3 Q. I'm trying to figure out how someone can make you feel
4 that you have a debt to them big enough that you need to go
01:48:38PM 5 commit this act.

6 A. I think because at the time, like I say, I was on the
7 medication and the alcohol that I really just didn't think it
8 was going to get that serious.

9 Q. Okay. Was the kicking in the door according to you
01:49:05PM 10 planned?

11 A. No, sir.

12 Q. When you realized that Mr. Wilkinson had run back into
13 the house and you and Mr. Pugh went up to the door, by that
14 time did you realize the door was going to have to be kicked
01:49:19PM 15 in?

16 A. Yes, sir.

17 Q. So when the kick actually occurred, you guys knew that
18 was coming. You knew you were going to do that?

19 A. I want to say that -- like I say, he ran up to the door
01:49:30PM 20 first. I was coming up behind him. So I didn't say kick in
21 the door or jump to, it was just -- I think the guy was still
22 running in the house, so I think he was more of not trying to
23 kick the door but --

24 Q. You certainly weren't saying, don't kick the door in?

01:49:42PM 25 A. No, no, definitely not. No, I didn't say that.

1 Q. So you're not --

2 A. I'm not --

3 COURT REPORTER: Whoa, whoa, one at a time.

4 Q. (BY MR. MONROE) You're not handing that off to Scotty?

01:49:49PM 5 But that's all him?

6 A. Kicking in the door?

7 Q. Yes.

8 A. Yes, sir.

9 Q. I mean, it was okay with you that he kicked in that
01:49:56PM 10 door?

11 A. Yes, sir.

12 Q. Because you were going in with him? He may have
13 actually kicked it --

14 A. Yes, sir.

01:50:01PM 15 Q. -- but you were in on that, too?

16 A. Yes, sir.

17 Q. Okay. And so you were still furthering your scheme of
18 collecting money when Scotty kicked in the door?

19 A. Yes, sir.

01:50:11PM 20 Q. Now, who was the first one to enter?

21 A. Scotty was.

22 Q. You came in right behind him?

23 A. Yes, sir.

24 Q. There was no point in this entire scenario where you
01:50:19PM 25 were saying, oh, Scotty, we don't want to do that. Don't do

1 that. That never happened?

2 A. No, sir, it did not.

3 Q. So you're not blaming any of this on Scotty?

4 A. Oh no, sir.

01:50:50PM 5 Q. How long were you put on probation for out of Arizona?

6 A. I believe it was five years.

7 Q. All the stuff in the -- in your video statement that
8 you gave up about coming down here for a sex offender, that was
9 all BS?

01:51:26PM 10 A. Yes, sir, it was.

11 Q. There wasn't anybody down here raping girls?

12 A. No, sir, not at all.

13 Q. All that was all a lie?

14 A. Yes, sir, it was.

01:51:41PM 15 Q. When y'all stopped at the convenient store on the way
16 here from San Antonio --

17 A. Yes, sir.

18 Q. -- where did you stop?

19 A. I want to say it was a Shell station.

01:51:52PM 20 Q. On the interstate?

21 A. Yes, sir, I believe so.

22 Q. Out there where the McDonald's is? Do you remember
23 that?

24 A. I really don't remember.

01:52:01PM 25 Q. Is it -- was it Loves? You know what I am talking

1 about, the big --

2 A. No, sir. Honestly I'm not familiar with it. That was
3 the first time.

01:52:15PM

4 Q. And did you and Scotty alone pull into that or did Big
5 Mike pull in as well?

6 A. He pulled in as well.

7 Q. And did y'all park next to each other?

01:52:26PM

8 A. No, I want to say he was closer towards like -- a
9 little bit in front of us. I don't know exactly where he
10 parked at, but I know that --

11 Q. Would the surveillance video from Loves show whether or
12 not --

13 A. Yes, sir. I mean I don't know where the cameras are
14 located, but it should.

01:52:41PM

15 Q. You have had other -- well, let me stop.

16 May we approach the bench?

17 (Bench conference).

01:53:16PM

18 MR. MONROE: There is some other extraneous
19 offenses, convictions that I would like to get him to admit its
20 him. It is covered in the motion in limine. They are included
21 in our notice, but I wanted to approach the bench before I go
22 into it to give Mr. Brown --

23 MR. BROWN: Which one are we talking about?

24 MR. MONROE: This.

01:53:30PM

25 MR. BROWN: He admitted to that already.

1 MR. MONROE: I just want to ask him about it.
2 This one, this one, this one and I think that was another
3 item --

4 MR. BROWN: These right here?

01:53:42PM 5 MR. MONROE: I just want to talk about them. I
6 think I've already done this.

7 MR. BROWN: Yeah, okay.

8 (Bench conference ended).

9 Q. (BY MR. MONROE) You have had other run-ins with the law
01:54:06PM 10 prior to September 5, 2013; have you not?

11 A. Yes, sir.

12 Q. And as a matter of fact, you had had other run-ins with
13 the law prior to the Arizona charges?

14 A. Yes, sir.

01:54:22PM 15 Q. Is it true or not true that on or about December 28,
16 2002, in Seguin county you were committed of the offense of
17 criminal mischief?

18 A. Yes, sir.

19 Q. Of a value for more than 500 but less than 1500?

01:54:57PM 20 A. Yes, sir.

21 Q. What did you do?

22 A. I threw a beer bottle through a glass and I had hit a
23 truck window with a bat.

24 Q. Were you drunk when you did that?

01:54:57PM 25 A. Yes, sir.

1 Q. On or about July 9, 2006, in Bexar County, you were
2 caught with marijuana; is that correct?

3 A. Yes, sir, I believe so.

4 Q. And you were placed on deferred adjudication probation?

01:55:10PM 5 A. Yes, sir.

6 Q. Did you successfully complete that?

7 A. Yes, sir.

8 Q. All right. You maintained at least as far as probation
9 knew all the terms and conditions of your probation then?

01:55:20PM 10 A. Yes, sir.

11 Q. And you were under terms and conditions of probation
12 from Texas at that point in time obviously?

13 A. Yes, sir. It was Texas, yes, sir.

14 Q. And so quite frankly --

01:55:33PM 15 MR. MONROE: May I approach the witness?

16 THE COURT: Yes.

17 Q. (BY MR. MONROE) The terms and conditions of probation
18 you were under for the misdemeanor marijuana charge out of
19 Bexar County were for the most part identical to the terms and
01:56:51PM 20 conditions of probation under State's Exhibit 39; is that
21 correct?

22 A. I -- I don't think so. I'm not positive.

23 Q. Pretty sure they were?

24 A. I'm not positive.

01:57:00PM 25 Q. Are you positive?

1 A. I'm sorry. The question is stipulations to it, is that
2 what the question was? I'm sorry.

3 Q. I said I'm pretty sure they were probably read exactly
4 the same. Are you sure you don't remember?

01:57:23PM 5 A. Repeat the question for me, I'm sorry.

6 Q. The terms and conditions that you had on probation
7 while you were on probation in San Antonio --

8 A. Yes, sir.

9 Q. -- the same terms and conditions are virtually the same
01:57:34PM 10 as the terms and conditions you were given when you transferred
11 your probation from Arizona to Texas?

12 A. Yes, sir.

13 Q. All right. They were the same. So you knew back in
14 2006 that one term and condition of your probation there was
01:57:49PM 15 you couldn't commit no other offenses?

16 A. Yes, sir.

17 Q. And you knew you had to avoid injurious or vicious
18 habits?

19 A. Yes, sir.

01:57:58PM 20 Q. Abstain from the legal use of controlled substances or
21 marijuana?

22 A. Yes, sir.

23 Q. Which includes Xanax because you didn't have a
24 prescription?

01:58:08PM 25 A. Yes, sir.

1 Q. And any excessive consumption of alcoholic beverages?

2 A. Yes, sir.

3 Q. Is it a fair statement to say that you were pretty much
4 violating those terms just about every day?

01:58:20PM 5 A. The two, yes, sir.

6 Q. You're also supposed to avoid persons and places of
7 disreputable harm or character. That was in the original terms
8 in 2006; was it not?

9 A. Yes, sir.

01:58:32PM 10 Q. And so when you get that one again when you transfer
11 here from Arizona --

12 A. Yes, sir.

13 Q. -- you're familiar with what that means?

14 A. Which part, I'm sorry?

01:58:44PM 15 Q. About persons or places of disreputable --

16 A. Yes, sir.

17 Q. So you knew every time you were around Big Mike you
18 were violating your probation?

19 A. Yes, sir.

01:59:05PM 20 Q. Is it still your position right this second that you
21 don't know Big Mike's last name?

22 A. I know now since -- yeah. I read it.

23 Q. Is it also true that the conviction I just asked you
24 about or the deferred adjudication probation was possession of
01:59:30PM 25 marijuana that was on July 9, 2006, in San Antonio?

1 A. I believe so, yes, sir.

2 Q. And there was a second one on May 20, 2008, in Bexar
3 County also for possession of marijuana?

4 A. Yes, sir.

01:59:42PM 5 Q. The first one in July of 2006 was possession of
6 marijuana under two ounces?

7 A. Yes, sir.

8 Q. The one in May of 2008 was possession of marijuana from
9 two to four ounces?

01:59:56PM 10 A. Yes, sir.

11 Q. And so the jury understands, the greater amount of
12 marijuana would have caused that to be a more severe crime? In
13 other words --

14 MR. BROWN: I'm going to object, Your Honor.
02:00:07PM 15 That's a misrepresentation of the law. They are both
16 misdemeanors.

17 MR. MONROE: Well, one would certainly be a Class
18 B and one a Class A.

19 MR. BROWN: They're both misdemeanors, Judge. I
02:00:18PM 20 think he's misleading this jury.

21 THE COURT: Overruled. Overruled.

22 Q. (BY MR. MONROE) The second one was more severe than the
23 first one?

24 A. The second one was?

02:00:29PM 25 Q. The second one was.

1 A. They have the same amount of probation. I'm not
2 positive on that.

3 Q. The range of punishment for the second one is a greater
4 range of punishment than the first one, correct? Less than two
02:00:41PM 5 ounces is a less range of punishment than two ounces to
6 four ounces?

7 A. Yes, sir.

8 Q. Any question about that?

9 A. I am sorry. I'm not positive about the punishment. I
02:00:53PM 10 know the amounts are different, but I don't know about the
11 punishment.

12 Q. Yes, they are both misdemeanors, but one is a Class B
13 misdemeanor and one is a Class A misdemeanor?

14 A. Yes, sir, I did --

02:01:02PM 15 Q. And a Class A misdemeanor has a more severe punishment
16 range than a Class B misdemeanor?

17 MR. BROWN: Your Honor, I object. That's not even
18 a question.

19 THE COURT: If he knows the answer, he can answer.
02:01:13PM 20 Do you know the answer to that?

21 THE WITNESS: Yes, sir.

22 Q. (BY MR. MONROE) I'm correct. It's more severe?

23 A. Yes, sir.

24 Q. Have you committed any other offenses for which you
02:01:53PM 25 have not been convicted that you can tell us about?

1 A. No, sir.

2 Q. No other home invasion robberies?

3 A. No, sir.

02:02:33PM 4 MR. BROWN: Judge, may we approach real quick? Do
5 you mind?

6 THE COURT: Yes.

7 (Bench conference).

8 MR. BROWN: They have evidence on the table and
9 they're talking about it and I can hear them all the way where
02:02:51PM 10 I am sitting at and explaining what the evidence is and the
11 people are -- there are exhibits that are sitting at their
12 table that are not in evidence. I just ask that they either
13 turn off their microphone or do it more discretely.

14 THE COURT: Do you think the jurors can hear?

02:03:07PM 15 MR. BROWN: I can hear.

16 MR. MONROE: I'm not very good at turning it off
17 and on as the Court knows, but I'm happy to try to do that.

18 THE COURT: Okay.

19 (Bench conference ended).

02:03:44PM 20 MR. MONROE: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes.

23 Q. (BY MR. MONROE) State's Exhibit 42 was something that I
24 showed Doctor Roache?

02:03:56PM 25 A. Yes, sir.

1 Q. But can you identify State's Exhibit 42?

2 A. It's a part of the DD214.

3 Q. Part of your military records?

4 A. Yes, sir.

02:04:08PM 5 Q. And you recognize this as a copy of some of your
6 military records?

7 A. Yes, sir.

8 MR. MONROE: All right. We would offer State's
9 Exhibit 42.

02:04:28PM 10 THE COURT: Mr. Monroe, and let me -- I needed to
11 tell you when you started, but that last exhibit you marked, we
12 were debating whether it was 46 or 48. It's actually 48 if you
13 get to that. We'll need to remark it as 48.

14 MR. MONROE: That's the cell phone?

02:04:44PM 15 THE COURT: Yes. You can do that now or some
16 other time, but I just want to make sure you know.

17 MR. MONROE: I'd offer State's Exhibit 42 into
18 evidence, Your Honor.

19 (State's Exhibit No. 42 offered).

02:04:57PM 20 THE COURT: Any objection?

21 MR. BROWN: No objection.

22 THE COURT: 42 is admitted.

23 (State's Exhibit No. 42 admitted).

24 MR. MONROE: If the Court can give me just a
02:05:11PM 25 second.

1 May we approach the bench?

2 THE COURT: Yes.

3 (Bench conference).

4 MR. MONROE: And it might be easier to do this

02:05:57PM 5 without the jury in here, but we have obtained a search warrant

6 for the cell phone and it is in the process of being

7 downloaded. It's going to take a while. I don't know how

8 long. I'm through at this point until we get those records.

9 So I'm prepared to pass this witness, but I don't want to be

02:06:22PM 10 precluded from recalling him once we get the cell phone

11 records, and I want to make sure that everybody understood that

12 before I pass the witness and somebody tells me later on I

13 can't recall him.

14 THE COURT: If he doesn't have any other witnesses

02:06:37PM 15 and he rests, what do we do?

16 MR. MONROE: We're going to have to -- Your Honor,

17 I'm very sorry. I mean --

18 MR. BROWN: They can't recall my client as a

19 witness, Judge.

02:06:49PM 20 MR. MONROE: I think I can since he's waived the

21 Fifth Amendment, but the question is will the Court let me do

22 that.

23 THE COURT: The cell phone messages to see if he

24 talked to Mike, is that what you're doing?

02:07:03PM 25 MR. MONROE: We have reason to suspect that there

1 are text communications with Mike that would indicate this was
2 planned differently than he testified to. We may not know.
3 He's also claimed to not know how to reach Mike, so --

02:07:25PM 4 MR. BROWN: And, Judge, we would object that
5 they've been in possession of this phone since day one. We've
6 already pled guilty and we're in the punishment phase of this
7 case. They've had an opportunity to issue a subpoena on the
8 phone. They've had it in their possession. The State
9 presented the text messages that we just saw recently.

02:07:42PM 10 THE COURT: How long have you had the phone?

11 MR. BROWN: Since the day of arrest.

12 THE COURT: Why did you wait until trial to search
13 the phone?

14 MR. MONROE: Pardon?

02:07:50PM 15 THE COURT: Why did you wait until trial to search
16 the phone?

17 MR. MONROE: I'm not sure that we realized what
18 might possibly be on them and wasn't sure up until then that we
19 had probable cause to search it and certainly couldn't
02:08:02PM 20 anticipate the witness, the defendant, taking the stand and
21 acknowledging there are text messages with him saying who they
22 are going to come up here with. There is just no way to
23 anticipate that.

24 MR. BROWN: Judge, all --

02:08:18PM 25 THE COURT: All kind of things would happen if

1 they get in there and there is stuff that's exculpatory, then
2 what do we do then? I mean I think he's probably entitled to a
3 continuance if there is something exculpatory. If Mike says,
4 gosh, I can't believe you just called me tonight, why didn't
02:08:34PM 5 you call me earlier, then it's probably something that he's
6 entitled to have known about.

7 MR. MONROE: Yes, sir.

8 MR. BROWN: Yes, sir.

9 THE COURT: Do you want to open up that can of
02:08:45PM 10 worms?

11 MR. MONROE: I think if the Court will give me
12 about 15 minutes --

13 THE COURT: Sure.

14 MR. MONROE: -- to visit with my people and decide
02:08:53PM 15 whether or not if that's the direction we want to go.

16 THE COURT: All right.

17 (Bench conference ended).

18 THE COURT: All right. We're going to -- it's a
19 little early, but we're going to take a recess. We'll be in
02:09:04PM 20 recess for 15 minutes if you'll go with the bailiff, please.

21 THE BAILIFF: All rise for the jury, please.

22 (Jury not present).

23 THE COURT: All right. We'll be in recess for 15
24 minutes.

02:09:36PM 25 (Recess).

1 THE COURT: Mr. Monroe.

2 (Jury not present).

3 MR. MONROE: Based on information received from
4 the defendant on the stand as to different people that were
02:27:50PM 5 peripherally involved; who he stayed with, who he was with, who
6 drove down with him, we went on Facebook just this second and
7 retrieved some photographs from China's page as we now know who
8 that is. These are black and white copies of them and I was
9 going to show them to the defendant and ask if he can identify
02:28:13PM 10 the people in there.

11 It is our understanding that this woman here is
12 Erica, the one he stayed with the night he came down here; that
13 this gentleman here is China, the one he said he drove down
14 here with that was not with them. And this is a bad picture,
02:28:33PM 15 but this is actually the defendant. I think this is China
16 again. I just want him to identify these people. There are
17 some colored ones that are a little bit better.

18 MR. BROWN: Judge, we don't think they're timely
19 obviously. We don't think that they're relevant. None of
02:28:45PM 20 these people in these photos are accused of any crimes or a
21 part of this case. Whether or not he stayed at their house or
22 somebody drove him down here from Dallas doesn't have any
23 bearing on this case. I think it's irrelevant.

24 THE COURT: I'll sustain the objection. It's
02:29:03PM 25 irrelevant.

1 MR. BROWN: Thank you.

2 MR. MONROE: Let me back up then and add one more
3 thing. The defendant has testified very specifically that
4 after they left San Antonio to come to Kerrville, it was three
02:29:22PM 5 people. Three people alone, only three. And we have the
6 surveillance video from Loves that clearly shows China was with
7 them and I think he's committed aggravated perjury. I think
8 I'm entitled that I can show who China is. That's the purpose
9 for it.

02:29:45PM 10 THE COURT: So which one is China?

11 MR. MONROE: This gentleman here.

12 THE COURT: I mean, is he in any of the other
13 ones?

14 MR. MONROE: Yes, he is this gentleman here I
02:29:58PM 15 believe. I mean --

16 MR. BROWN: Judge, they see a video. They haven't
17 established who the person is. This is the first I'm hearing
18 of it. There is no evidence of anybody and the fact that all
19 the evidence that they had were only two people went up there.

02:30:11PM 20 THE COURT: If you're going to get into that line
21 of questioning and you're going to ask him about having this
22 person with him and he's lied about it under oath, I can see
23 where this might be relevant. The one with the young lady,
24 whoever that is, I don't think that helps anything, but this
02:30:27PM 25 might tie into the person that --

1 MR. MONROE: I think this guy and this guy is the
2 same.

3 THE COURT: That's the reason I -- these two guys
4 probably don't need to be in there. I'm not as worried about
02:30:37PM 5 them as I am a bunch of young --

6 MR. MONROE: So here what I might do with the
7 Court's permission is just ask him is China in either of these
8 photos, and if he is, to circle him and then not ask him about
9 any of the other people.

02:30:55PM 10 THE COURT: Well, just use this one here.

11 MR. BROWN: And, Judge, again --

12 THE COURT: I mean, first of all, you're going to
13 have to show the relevance that you've got some proof that
14 China was with him. But, you know, if you're going to charge
02:31:08PM 15 him with aggravated perjury, that's another thing. He's
16 already testified. That's another case that you're going to
17 make another trial.

18 MR. MONROE: Your Honor, we're going to show the
19 surveillance video here in another five minutes.

02:31:20PM 20 THE COURT: Okay.

21 MR. MONROE: So the jury is going to see it wasn't
22 three, there were four.

23 MR. BROWN: Judge, we've haven't ever seen the
24 surveillance video.

02:31:28PM 25 THE COURT: When did you get the surveillance

1 video?

2 MS. COLEMAN: Months ago.

3 THE COURT: And you gave it to him?

4 MS. COLEMAN: Months ago.

02:31:36PM 5 THE COURT: Okay. And you gave them to him?

6 MR. MONROE: Yes.

7 THE COURT: All right. You can bring the jury in.

8 THE BAILIFF: Bring them in?

9 THE COURT: Yeah.

02:31:43PM 10 THE BAILIFF: Yes, sir.

11 MR. BROWN: Judge, may we approach real quick
12 before they come in?

13 THE COURT: Yes. Mr. Monroe, he has something
14 else.

02:32:30PM 15 MR. BROWN: I am tendering to the Court all the
16 videos that were provided to me in discovery and there is no
17 video of any gas station that I was provided.

18 THE COURT: Can you put your hands on it and see
19 when your records show that you delivered it to him?

02:32:47PM 20 MR. MONROE: Yes, Your Honor. They would show
21 that. We're back there trying to retrieve our records.

22 MS. COLEMAN: Your Honor, I think part of it is
23 there are four files and he received discovery in each of the
24 four, so we're checking it.

02:32:59PM 25 MR. BROWN: And DVDs for all of them? There was

1 one set of DVDs. I've got the email they sent me in discovery.

2 MR. MONROE: They're trying to see.

3 MR. BROWN: Here is November 19, 2013, everything
4 that was attached.

02:36:39PM 5 MR. MONROE: I think they're checking to see. And
6 that's correct, it doesn't appear to be on there. They're
7 checking to see if there was another submission. If there
8 wasn't, we won't do it.

9 We won't pursue it.

02:39:09PM 10 THE COURT: All right. Rusty, go get the jury.

11 THE BAILIFF: Yes, sir.

12 MR. BROWN: Judge, can I have two minutes with my
13 client?

14 THE BAILIFF: Are you ready?

02:39:49PM 15 MR. BROWN: What was the ruling on the pictures or
16 are we not going to go into that avenue?

17 THE COURT: Let's see. If he tries to offer them,
18 stand up and object and we're going to come to the bench.

19 Are you going to offer the pictures?

02:40:02PM 20 MR. MONROE: I'm not going to offer them.

21 THE COURT: Okay.

22 THE BAILIFF: All rise.

23 (Jury present).

24 THE COURT: All right. Thank you. Have a seat.

02:40:34PM 25 Mr. Monroe, you may continue with your examination

1 of Mr. Travis.

2 MR. MONROE: Your Honor, at this time, the State
3 would pass the witness.

4 THE COURT: Any redirect?

02:40:43PM 5 MR. BROWN: No further questions of this witness,
6 Your Honor.

7 THE COURT: Thank you. You may go back to your
8 seat, Mr. Travis.

9 Any other witnesses?

02:40:50PM 10 MR. BROWN: No further witnesses from the defense,
11 Your Honor.

12 THE COURT: You rest.

13 MR. BROWN: We rest.

14 THE COURT: Any rebuttal witnesses, Mr. Monroe?

02:41:09PM 15 MR. MONROE: The State will close.

16 THE COURT: You close?

17 MR. BROWN: The defense closes, Your Honor.

18 THE COURT: Well, that last break took a little
19 bit longer but we were doing some discussions in here. That is
02:41:18PM 20 all the evidence you're going to hear in this case.

21 What we need to do is put together a charge and I
22 think we pretty much have it ready to go. I need to just tweak
23 it, make copies for you. Once again, I'm going to read that
24 charge to you and you're going to hear some argument from the
02:41:35PM 25 attorneys and you'll go back and make your decision.

1 So if you can go with the sheriff and the bailiff,
2 I'm going to get this charge ready very quickly and we'll get
3 you back in here to do your final deliberations.

4 So if you'll go with the bailiff, I'll get this
02:41:52PM 5 charge ready for you.

6 THE BAILIFF: All rise for the jury.

7 (Jury not present).

8 OBJECTIONS TO THE CHARGE

9 THE COURT: Do you have any objections to the
02:55:51PM 10 charge, Mr. Monroe?

11 MR. MONROE: None, Your Honor.

12 THE COURT: Any objections from the defense, Mr.
13 Brown?

14 MR. BROWN: None from the defense, Your Honor.

02:56:00PM 15 THE COURT: Thank you.

16 THE BAILIFF: All rise for the jury, please.
17 (Jury present).

18 THE COURT: Please be seated. Members of the
19 Jury, the case has been closed in regard to evidence. At this
02:57:03PM 20 time, it is incumbent upon me to read the charge on punishment.

21 CHARGE TO THE JURY ON PUNISHMENT

22 THE COURT: Members of the Jury:

23 The defendant, Vernon Lee Travis, III, has been
24 found guilty by you of burglary of a habitation with intent to
02:57:16PM 25 commit aggravated assault with a deadly weapon.

1 The punishment authorized for burglary of a
2 habitation with intent to commit aggravated assault with a
3 deadly weapon is by confinement in the Texas Department of
4 Criminal Justice-Institutional Division for a term not less
02:57:33PM 5 than five years -- not less than five nor more than 99 years or
6 life and the jury may, in its discretion, assess a fine, if it
7 chooses, in any amount not to exceed \$10,000.

8 It now becomes your duty to set the punishment
9 which will be assessed against the defendant.

02:57:48PM 10 You are instructed that if there is any testimony
11 before you in this case regarding the defendant having
12 committed offenses other than the offense alleged against him
13 in the indictment in this case, you cannot consider said
14 testimony for any purpose unless you find and believe beyond a
02:58:04PM 15 reasonable doubt that the defendant committed such other
16 offenses, if any were committed.

17 The State has introduced evidence of extraneous
18 crimes or bad acts other than the one charged in the indictment
19 in this case. This evidence was admitted only for the purpose
02:58:15PM 20 of assisting you, if it does, in determining the proper
21 punishment for the offense of which you have found the
22 defendant guilty. You cannot consider the testimony for any
23 purpose unless you find and believe beyond a reasonable doubt
24 that the defendant committed such other acts, if any were
02:58:29PM 25 committed.

1 Deadly weapon means a firearm or anything
2 manifestly designed or adapted for the purpose of inflicting
3 death or serious bodily injury; or anything that in the manner
4 of its use or intended use is capable of causing death or
02:58:44PM 5 serious bodily injury. A firearm is a deadly weapon.

6 Firearm means any device designed, made, or
7 adapted to expel a projectile through a barrel by using the
8 energy generated by an explosion or burning substance or any
9 device readily convertible to that use.

02:59:00PM 10 Under the law applicable in this case, the
11 defendant, if sentenced to a term of imprisonment, may earn
12 time off of the sentence imposed through the award of good
13 conduct time. Prison authorities may award good conduct time
14 to a prisoner who exhibits good behavior, diligence in carrying
02:59:14PM 15 out prison work assignments, and attempts at rehabilitation.
16 If a prisoner engages in misconduct, prison authorities may
17 also take away all or part of any good conduct time earned by
18 the prisoner.

19 It is also possible that the length of time for
02:59:27PM 20 which the defendant will be imprisoned might be reduced by the
21 award of parole.

22 Under the law applicable in this case, if the
23 defendant is sentenced to a term of imprisonment, he will not
24 become eligible for parole until the actual time served plus
02:59:40PM 25 any good time earned equals one-half of the sentence imposed.

1 Eligibility for parole does not guarantee that parole will be
2 granted.

3 It cannot be accurately predicted how the parole
4 law and good conduct time might be applied to this defendant
02:59:53PM 5 if he is sentenced to a term of imprisonment because the
6 application of these laws will depend on decisions made by
7 prison and parole authorities.

8 You may consider the existence of the parole law
9 and good conduct time. However, you are not to consider the
03:00:06PM 10 extent to which good conduct time may be awarded to or
11 forfeited by this particular defendant. You are not to
12 consider the manner in which the parole law may be applied to
13 this particular defendant. Such matters come within the
14 exclusive jurisdiction of the Pardon and Parole Division of the
03:00:24PM 15 Texas Department of Criminal Justice and the Governor of Texas.

16 You are further instructed that in considering
17 your verdict, you must not receive or consider, refer to or
18 discuss any matter or testimony other than that now in evidence
19 before you. Your verdict will be by a unanimous vote.

03:00:36PM 20 After argument of counsel, you will retire and
21 consider your verdict, and after you've arrived at your
22 verdict, you may use one of the forms attached hereto by
23 having the presiding juror sign the particular form that
24 conforms to your verdict.

03:00:48PM 25 The above and foregoing is the Court's charge on

1 punishment in this case, and the same is hereby signed and
2 certified by the Court on this the 8th day of May, 2014.

3 The first verdict form is:

4 We, the jury, having found the defendant Vernon
03:01:02PM 5 Lee Travis, III, guilty of the offense of burglary of a
6 habitation with intent to commit aggravated assault with a
7 deadly weapon, as charged in the indictment, assess defendant's
8 punishment at,

9 Confinement in the Texas Department of Criminal
03:01:16PM 10 Justice Institutional Division for a period of blank.

11 Or (b), Confinement in the Texas Department of
12 Criminal Justice Institutional Division for a period of blank
13 and a fine of blank.

14 At this time, we'll hear final arguments.

03:01:28PM 15 The State.

16 MR. MONROE: The state is ready, Your Honor.

17 May it please the Court?

18 THE COURT: Yes.

19 MR. MONROE: Opposing counsel.

03:01:33PM 20 CLOSING STATEMENT

21 MR. MONROE: You never know how these things are
22 going to go, how they're going to flow, what's going to happen,
23 what's going to be said. As you can tell, there is a bit of
24 winging it at different times here and if that was a
03:01:52PM 25 distraction to you, frustrating to you, I apologize. As I

1 said, we don't get to find out in advance about a defendant
2 testifying, so there was a little of that.

3 As Judge Ables told you, I open. I get to make a
4 couple of suggestions to you, point out a couple of things if
03:02:09PM 5 I want to and I sit down, and Mr. Brown is going to come and
6 talk to you and then I'll close. So this portion of it is
7 going to be pretty short.

8 You know, first of all, I don't guess I could
9 emphasize that there aren't too many more serious crimes in
03:02:24PM 10 the State of Texas than the one that was committed here today
11 and that we're not here over someone who was shot or killed is
12 nothing short of a miracle because that would have been the
13 only thing worse.

14 This is really, really bad and now we know this
03:02:43PM 15 was a drug crime. This was a drug crime. We had druggees come
16 from San Antonio to Kerrville, Kerrville south, to get a drug
17 debt. So what are you going to tolerate? That's where we are.
18 I mean, just what behavior are you going to accept and what
19 behavior are you not going to accept? You've got an enormous
03:03:06PM 20 range of punishment and that's why you have it.

21 You know, I think one thing Doctor Roache said
22 that I think is absolutely true, and bear this in mind
23 especially when you hear everything that Mr. Young is going to
24 tell you -- I mean Mr. Brown is going to tell you.

03:03:31PM 25 Post-traumatic stress disorder did not cause this defendant to

1 commit this offense. It did not compel him to do this. He
2 made a conscious decision to engage in this conduct. It did
3 not cause him to do it and it was not as a result of
4 post-traumatic stress disorder. It bothers me a little bit
03:04:05PM 5 for those veterans who truly suffer from that, that that
6 implication might be left, that I have no doubt that the
7 experiences in war are horrible, but it just does not make
8 everyone commit a crime like this.

9 As you hear Mr. Brown, bear in mind law
03:04:27PM 10 enforcement has nothing to gain or lose, no big giant
11 conspiracy to fabricate evidence. They just did their job as
12 best they could do it and they found what they found. If they
13 made a mistake on something, they made a mistake on something
14 and take that into consideration when you hear what I think is
03:04:49PM 15 going to be all of the excuses that have been given this
16 entire time. Excuses.

17 So I ask you to listen to that. When Mr. Brown
18 is finished, I'll come back up and make some comments on
19 whatever he says and then you'll be asked to deliberate. And
03:05:10PM 20 I sincerely appreciate the attention you've given to me and if
21 there is something I've done that's offended you, I apologize.
22 It wasn't my rule. As you can see, I can get a little excited
23 at times and I'm guilty of that.

24 So thank you. Please give the same amount of
03:05:28PM 25 attention to Mr. Brown that you've given to me. He is

1 entitled to that and I'll come back up in a minute. Thank
2 you.

3 THE COURT: Mr. Brown.

4 MR. BROWN: May I proceed, Your Honor? I just
03:06:04PM 5 need to get a couple of exhibits.

6 THE COURT: Yes.

7 MR. BROWN: May I proceed, Your Honor?

8 THE COURT: Yes.

9 MR. BROWN: Thank you.

03:06:08PM 10 CLOSING STATEMENT

11 MR. BROWN: Ladies and Gentlemen, it's been a long
12 couple of three days. I know that there were some things that
13 we talked about in the beginning of voir dire that we
14 anticipated seeing in this case, witnesses you expected to hear
03:06:20PM 15 from, evidence that you expected to see for various different
16 reasons.

17 First, I want to get into the jury charge. The
18 jury charge indicates if you look at the first sentence,
19 burglary of a habitation with intent to commit aggravated
03:06:37PM 20 assault with a deadly weapon. If you recall the very
21 beginning of this trial, the Judge or the prosecution read the
22 indictment to you. I'm going to read it to you again.

23 On or about September 5, 2013, and before the
24 presentment of this indictment, in said county and state, did
03:06:52PM 25 then and there intentionally or knowingly enter a habitation,

1 without the effective consent of Wylie Wilkinson, the owner
2 thereof, and attempted to commit or committed the felony
3 offense of aggravated assault.

4 The person named in the indictment, Wylie
03:07:09PM 5 Wilkinson, where is he at? Why didn't he come in here? Why
6 didn't the prosecution bring him down here so you could hear
7 from him? They didn't bring him down here one time. The
8 person that is supposed to be the complainant in this
9 particular case, they didn't bring him down here. Isn't that

03:07:29PM 10 odd? Right? They brought the sister who was in the house,
11 and they could have easily based on her testimony and what
12 they led you to believe the testimony was put her in here.

13 Well, why didn't they put her in here? Why didn't they list
14 her? You heard the discrepancies in the testimony. There
03:07:50PM 15 were witnesses saying all different kinds of things including
16 her, right? Think about that. Why -- why did they not bring
17 him into testify when he's the person listed in this document?

18 Page 2 of the jury charge that talks about parole
19 and I'll get there in just a minute on that. I might want to
03:08:19PM 20 jump ahead of myself, so if you can just keep it on Page 2 for
21 a second.

22 The facts that were established in this case, you
23 heard from Vernon Travis' family, Trey's family, the kind of
24 upbringing he had. You heard from his mom and dad. You heard
03:08:38PM 25 she was an educator. He was in the military himself, worked

1 in Louisiana, kind of transferred around, divorced at a young
2 age for Vernon. That he was a good kid growing up. Actually
3 graduated from high school at the age of 16, which I think is
4 pretty impressive to show you the kind of kid he was. You
03:08:58PM 5 know, there was some issue about when he signed up for the
6 military, when he was admitted to the military, and I hope
7 that got cleared up because he actually signed up for the
8 military just after graduating from high school. I think the
9 testimony was clear to that, 2001 just after May. He was
03:09:17PM 10 doing physical training with the military and was actually
11 supposed to sign his orders to accept his position
12 September 11. And I know I said that he was supposed to go to
13 boot camp and I misspoke at the beginning. So if you hold it
14 against anybody, that was my mistake on the dates, but he was
03:09:38PM 15 supposed to sign that day to accept his position for a
16 deferred enrollment program. And because of 9/11, he was
17 unable to do so. And ultimately, he signed this paperwork a
18 couple of months later, still, and enrolled June of 2002. And
19 I think that's clear from the testimony, from the documents
03:09:59PM 20 that you're going to take back with you.

21 He didn't have any issues prior to going to the
22 military. There is no evidence that he had drug, alcohol,
23 pills, any sort of problem for that -- for that matter, that
24 he again graduated high school in three years at the age of
03:10:20PM 25 16, which I think is fairly impressive.

1 There was no criminal cases. You heard the
2 prosecution talk about the marijuana. There was no marijuana
3 cases or anything of that nature until after he came back.

4 He received some awards and certificates for his
03:11:04PM 5 time over in Iraq and that's in evidence. You'll see. He
6 took care of his job. He did what he was supposed to do while
7 he was over there. The evidence showed as an Air Force, he
8 went over there with the Army, and you heard him testify, he
9 was left over there without anybody. He had to make his own
03:11:04PM 10 way home. This is all at the ripe age of 18 or 19 years old,
11 trying to figure -- figure things out for himself at that age,
12 how to get home. You would think that they would have taken
13 care of him to make sure that he got home with all the other
14 issues he had going on; dying, bombs blowing up, driving off
03:11:20PM 15 base, whatever the case may be.

16 He was discharged from the military shortly
17 thereafter. You have the pictures in evidence that shows --
18 you'll have the document that shows that they wrote him up for
19 not keeping tidy quarters, for not taking care of his barracks
03:11:39PM 20 so-to-speak and that started the downward spiral upon his
21 return from Iraq. I think it's clear from the evidence and
22 the testimony prior to his deployment to Iraq to after, his
23 life changed quite a bit.

24 He tried to maintain jobs. You heard testimony
03:11:57PM 25 from the witnesses here in the courtroom that he tried to

1 maintain jobs and he did the best he could do under the
2 circumstances, under the psychological issues that he was
3 suffering from and not knowing it. And y'all heard the
4 gentleman during voir dire, it took him 47 years to figure it
03:12:15PM 5 out. The guy in front of him, you know, it ranges from person
6 to person and he still didn't figure it out until they sent
7 him over there as a referral because he was having chest
8 pains. That's how he figured it out. It wasn't because he
9 went over there and said, I think I have PTSD. He went over
03:12:33PM 10 there because I have chest pains and they refer him to a
11 doctor who evaluates him and determines that he has PTSD and
12 you have that document before you. And you heard another
13 doctor come in and testify to the same thing, he has PTSD. He
14 has the symptoms of PTSD. He has the effects of the drinking
03:12:51PM 15 and the drugs and the withdrawalness and the sleepy habits.

16 September 2013 is I know a terrible day for a lot
17 of people and he's accepted responsibility. He has pled
18 guilty to this crime. The other person that was charged
19 hasn't come to court and pled guilty. He could have very
03:13:16PM 20 easily come to this court just as Vernon Travis did and pled
21 guilty. I'm responsible. I take responsibility for my
22 actions. He has not done that yet. As good of a picture they
23 want to paint of that guy, he hasn't done it. Very easily
24 could have done it.

03:13:35PM 25 Let's talk a little bit about that particular day

1 and the witnesses you heard from. You heard from two officers
2 in the guilt/innocence when he pled guilty. You heard from
3 two officers and I got a little opportunity to talk to y'all
4 about listening to all the evidence and how important it was
03:13:51PM 5 to hear all the evidence.

6 Wylie Wilkinson never brought him to testify at
7 all. Why? They don't want you to know who he is. You heard
8 the testimony. He's a dope dealer. And he admitted it in his
9 closing statement, this is a drug deal. They didn't want you
03:14:14PM 10 to know that. They were trying to hide it, but it got brought
11 out.

12 Captain Twiss, I don't like talking bad about
13 officers, but some of the things she said was just absolutely
14 contrary to the evidence and the testimony and the reports of
03:14:37PM 15 her own officers that she reviewed. Let me give you some
16 instances of that, and we're not making excuses, but I think
17 it's important for you to know the truth before you make your
18 decision. Absolutely important, the whole truth and nothing
19 but the truth.

03:14:55PM 20 She said she was the first one to walk up to him
21 and he did not smell of intoxicants. I know y'all remember
22 that because I remember it. I wrote it down. He did not
23 smell of intoxicants and the next officer that came in and
24 took his statement, what did he say? Man, strong odor of
03:15:15PM 25 intoxicants. Slurred speech. He had signs of intoxication.

1 Why? Why would she do that? To try to point Vernon Travis as
2 bad as she possibly can. Is that fair? Is that right?

3 Confusion as to who shot first, I asked her eight
4 to ten times who shot first. Well, there was a shot fired.

03:15:44PM

5 Wylie shot first? Well, he shot. Wylie shot first? Well, he
6 shot. Why wouldn't she say it? All the evidence, the
7 testimony, the witnesses, the other officer, everything she
8 had in her three-inch binder of police reports, clearly he
9 admitted it. I shot first. There is no doubt about it. Why?

03:16:08PM

10 There was confusion. It wasn't confusion, Ladies and
11 Gentlemen. There is no confusion about that.

12 Then she says there was shots fired from outside
13 the house. Nobody else testified to that. In fact, I showed
14 her in a report from one of her own evidence technicians, read
03:16:29PM 15 this paragraph. He says, no shots fired from outside the
16 house to inside the house. Why? Think about it. Why? To
17 make it sound like they were running up to the house shooting
18 the house or as they were running away shooting back at the
19 house? There is no evidence of that, zero.

03:16:50PM

20 Then I asked her about the -- and I didn't say
21 trajectory -- I used a different term. I used ballistics and I
22 apologize about that -- but the trajectory of the bullets.
23 There was one that clearly went inside the mattress. There is
24 another -- there is nothing to show that that's where the
03:17:08PM 25 bullet went. And I asked her, how did you account for Wylie

1 Wilkinson's shot when he shot into the ground? Where is the
2 picture of that? Where is that bullet? Where did that go?
3 Nothing. Think about it. Does it fit her story to say that he
4 didn't shoot out that door, like Scotty Pugh said he saw, and
03:17:35PM 5 like Ledford told you that Scotty Pugh told him, the other guy
6 in the house told Ledford, the other officer that testified.
7 Yes, he said he saw a bullet come out the door, just like
8 Vernon Travis testified. They don't want you to know that.
9 They don't want you to hear that. Why? I don't know.

03:17:58PM 10 Officer Ledford came in, he's the one that
11 testified -- he was the other officer who testified. No doubt
12 Vernon testified to this. They both ran up to the door.
13 Scotty happens to make it up to the door first. He's not
14 saying Scotty is more responsible than he is. He followed him
03:18:22PM 15 into the house. He never told him not to go. They told you
16 the plan was to get in, get out. There was no intent on using
17 the firearms, nothing of that nature. You heard him. Had he
18 known there was a woman in there or a child in there, he would
19 not have gone into that house. He testified to that. He told
03:18:37PM 20 you that. He had no idea -- he didn't even know the guy that
21 was in the house. He didn't know who he was.

22 He told you all that they went in; he went one
23 way, Scotty went the other. He goes and bangs on the door.
24 He never went down the hallway. You want to get to that,
03:18:57PM 25 that's important. I'm going to get to that in just a second.

1 Scotty goes down the hallway. Vernon says he
2 turns around and says get him in the bedroom after he realizes
3 they're in there because he didn't know until he heard them
4 yelling. Get them in the bedroom. Goes back up to the door or
03:19:15PM 5 towards the door, fires a shot, looks down, sees a hole in the
6 door, he calls it returns fire into the ground or at a down
7 angle as you can see the poles in the door. And they get out
8 of the house.

9 He told you why he threw the guns out the window.
03:19:35PM 10 It wasn't to hide evidence. He thought he was going to get
11 shot and killed when he came out holding a gun, so he threw
12 them out.

13 I thought it was kind of strange when Amber --
14 when I gave her this document right here showing the layout of
03:20:01PM 15 the house and I asked her to tell me what happened. And if
16 you recall, she says they came in the door and Scotty came to
17 the entry of the hallway. Vernon came back in this direction
18 of the kitchen of the dining room, and that's when she heard a
19 shot fired and then she heard more shots fired and then they
03:20:21PM 20 left. Recall that testimony, Ladies and Gentlemen, because
21 that's what happened. There is no evidence in any reports. I
22 asked Ledford, did anybody tell you that either one of these
23 guys stuck a gun to her head or pointed a gun at them or hit a
24 dog? No, did not. Don't you think that's a big issue? That
03:20:46PM 25 if that really happened, it would be all over every report, in

1 a statement and everything else.

2 And that takes me back to Captain Twiss. She
3 says, yeah, Ledford told me that that happened. Ledford told
4 me that they stuck a gun at the child and the woman. Well,
03:21:07PM 5 Ledford came in here, what did he say. It's not in my
6 reports. I didn't tell anybody that and I don't remember
7 telling anybody that. Again, to make it sound as bad as they
8 possibly can. It's a terrible case. I'm not trying to say
9 it's not. It's a terrible case, but the truth and the facts
03:21:27PM 10 matter for everybody involved.

11 The video, there has been some mention about the
12 video that has been turned into evidence by -- when it was
13 recorded of Vernon Travis. Y'all saw him. He was intoxicated.
14 He was talking about stuff that didn't even make sense. He
03:22:12PM 15 told you what he had been drinking, how many pills he had
16 taken. I mean, most of us would be in the emergency room
17 having alcohol pumped out of our system or having the pills
18 taken out of our system. That's how addicted he was to them.
19 That's how much he was trying to kill the pain inside of his
03:22:33PM 20 body, inside of his head, is that he was drinking excessively.
21 He was taking pills excessively and he didn't know why.

22 On that video, he says all kinds of crazy stuff
23 that he told you. I don't know where I got it from. None of
24 it was true. I don't know where I got it from. But one thing
03:23:01PM 25 I found interesting on that video at the end is a statement by

1 the officer in there, and I want y'all to look at that because
2 it bothers me, and I hope you as a jury it bothers you, too.
3 Juries in Kerr County are going to tear you apart. This isn't
4 Dallas, this isn't San Antonio, this isn't Houston, or
03:23:25PM 5 whatever other cities he named. Juries in Kerr County are
6 going to tear you apart. I have an issue with that and I hope
7 you do, too, as a jury because to me it makes it sound like
8 that people here can't be fair, that you guys or people in
9 this community can't be fair and I don't believe that for a
03:23:46PM 10 second.

11 We all talked about this earlier. We all
12 discussed the facts that are in this particular case, but for
13 him to say that isn't a scare tactic, well what was it? Maybe
14 it was. But to say that to any individual, juries are going
03:24:06PM 15 to tear you apart, I just -- the fairness of that, I don't
16 understand. And that should bother you as the 12 people
17 sitting on this case.

18 Vernon has accepted responsibility in this case.
19 He has pled guilty. He had a right to fight this case and we
03:24:32PM 20 talked about that during voir dire. Everybody has a right to
21 fight the case. Even if they're guilty as sin or innocent,
22 you have a right to fight your case. We talked about somebody
23 accepting responsibility, pleading guilty and how we would
24 treat them as opposed to somebody else who it wasn't. Me, I
03:24:53PM 25 didn't do it, it wasn't me, that's not what he did. You heard

1 the witnesses come in from his mom to his dad to the expert
2 witness that came in, yeah, he told me he did it. He told me
3 guns were involved. Every question that the prosecutor asked
4 every one of those witnesses, did he tell you he had guns?

03:25:14PM

5 Did he tell you he had a bullet proof vest? Did he tell you
6 he drove up there? Yes, he told each and everyone of them.
7 Not only did he accept responsibility in this courtroom, he
8 did it with everybody in his life. Everybody.

03:25:31PM

9 Doctor Roache came up here and testified about
10 the PTSD and Defendant's Exhibit No. 1 is the medical
11 diagnosis, something that y'all asked to see. I wanted y'all
12 to see that. The prosecutor tries to get up here and say, oh,
13 he fooled the system or he beat the system, that bothers me.
14 Until you've walked in another man's shoes and gone to Iraq as
15 a 17, 18-year old kid and experienced what he experienced,
16 don't talk about that because you don't know. You don't know
17 what he's suffering from. You don't know what he went through
18 just as I don't, but I know his life has completely turned
19 around upside down.

03:26:19PM

20 Made three diagnosis, drug induced mood disorder,
21 PTSD, polysubstance abuse, they explained all those. I'm not
22 a doctor, but y'all heard there is no doubt about it. Another
23 doctor, Doctor Roache came in and reviewed this document and
24 also met with Trey and confirmed all that was contained in
03:26:45PM 25 Doctor Williams' document that, in fact, he did suffer from

1 PTSD.

2 Trey mentioned on the stand, you know, I feel
3 like I've lost ten years of my life. I look back at the last
4 ten years and it's all been a blur, I think is the word he
03:27:07PM 5 used. He told y'all how much he drank. Y'all heard from
6 other people that he drank. He's not proud of that. He's not
7 up here boasting about it. He's up here to tell y'all what is
8 going on within him, what was affecting him. A bottle a day,
9 that's unbelievable. I mean, that is a lot. Six or eight
03:27:32PM 10 pills. I mean, two Xanax, I don't even like to take them. If
11 I have surgeries or injuries, I don't take that stuff because
12 it makes me feel afraid. Imagine what was going on in his
13 mind to make him do that to himself.

14 Doctor Roache came in here and again confirmed
03:28:01PM 15 Doctor Williams' report and said, yes, after reviewing his
16 reports, reviewing his medical or medical records, his
17 military records, his school records, it's apparent to me that
18 he suffers from PTSD. No hesitation about it. Absolutely.
19 And confirmed the drug alcohol abuse as well and said that's
03:28:29PM 20 common. That's a common event that people who suffer from
21 PTSD, they turn to drugs and alcohol to alleviate the pain
22 going on inside of them.

23 THE COURT: Five minutes.

24 MR. BROWN: Thank you, Judge.

03:28:44PM 25 You're going to be able to see his awards and

1 documentation before. You're going to be able to see his
2 write-ups that he received in the military, the pictures of
3 the complaints that they had. Think about it. He told y'all
4 he came back. He came back on his own without anybody. When
03:29:01PM 5 he came back, nobody came up to him and said, are you okay?
6 Do you need to be interviewed? Do you need to be counseled?
7 Is there something going on in your head? Are you tired? Are
8 you worn out? Tell us about it. Nobody. He showed up after
9 three weeks of sleeping at his mom's house and went straight
03:29:19PM 10 to work. Nobody even cared. Nobody.

11 When he was ultimately removed several months
12 later, again, no evaluations. I mean, how many red flags do
13 you need to show especially today, especially today with all
14 the issues and problems we're having in the military with PTSD
03:29:43PM 15 and the violence on basis. What other signs do you need from
16 somebody turning 180-degree turn from the way they were before
17 they went to now?

18 And I know Trey has been over there, he's crying
19 and rightfully so. As we were sitting here on voir dire and
03:30:06PM 20 opening statements, he was looking at everybody and he was
21 crying, and he was crying when he testified. He took some
22 medication which helped him calm down a little bit and that's
23 what it's for. He's remorseful and he's sorry, and he wishes
24 he could take that day back. I know he does. I know he wishes
03:30:30PM 25 he would have figured this out well before that.

1 In closing, on Page 2 -- I told y'all to open up
2 to Page 2 if you don't mind, under the applicable law, he's
3 sentenced to a term of imprisonment which he is going to be in
4 this case. There is no doubt about it. He's going to prison.

03:31:02PM 5 He would have to serve at least one-half of the time, at
6 least, and that's not even saying he's going to get out at
7 half. That's the first time he could. So if he gets a
8 five-year sentence, he's serving two and a half. No doubt
9 about it. And that's not even going to guarantee he's going
03:31:18PM 10 to get out at two and a half, so I don't want that to mislead
11 you. At half the time he's getting out regardless, that is
12 not the case. It's up to the parole board to determine
13 whether or not somebody is released.

14 When he is released, he has a place to go. You
03:31:33PM 15 heard the testimony of his father. Sincere, to the point,
16 somebody who is going to make a good role model for him, be in
17 his life every day, make sure that he has a roof over his
18 head, make sure that he goes to his appointments at the VA,
19 make sure that he continues his medication. Like Trey said,
03:31:52PM 20 he wants to impact others to make sure they don't do anything
21 like he did. And if he can save one person from doing it,
22 that's worth every second of every day if he can keep one
23 person from doing what he did. And I think he'll have a
24 bigger impact than that. So I ask you to give him the
03:32:14PM 25 opportunity to be able to do that.

1 He's only been getting treatment for a month and
2 a half for the PTSD. It's already made huge changes in his
3 life, substantial changes. I ask that you give him the low
4 end of the sentence range based on the facts and evidence in
03:32:34PM 5 this case, based on who you know about Vernon Travis, what you
6 know about Vernon Travis, the issues going on, the factors
7 surrounding the circumstance of this case, everything that's
8 come before you; the doctors, the family, the witnesses.

9 The low end of the sentencing range in this
03:32:59PM 10 particular case is the just range, and I know that you're not
11 those people that that officer said in that video. I know
12 y'all will be fair.

13 Thank you.

14 CLOSING STATEMENT

03:33:55PM 15 MR. MONROE: We don't really know how to respond.
16 I'll give it a shot here, as you probably anticipated that I
17 might.

18 One thing you have heard repeatedly was that the
19 defendant was going to accept responsibility. All of you
03:34:17PM 20 heard that phrase repeated multiple times. I'm going to
21 accept responsibility. And I ask you to look back on what all
22 you have heard in this case, especially from the defendant and
23 tell me whether you think he is accepting responsibility.
24 Because it sounds to me that this is everyone's fault but his.
03:34:49PM 25 Somebody else caused me to do this. I had a bad experience

1 that made me do this. Police officers lie. They've got some
2 grand conspiracy against me. It was somebody else that did
3 it, not me. He accepted responsibility. Yeah, he did
4 apparently to everyone he could manipulate and everyone he
03:35:14PM 5 thought he could affect their opinion. You know who he didn't
6 accept responsibility with? Amber. And he didn't accept
7 responsibility with us. So that is just hogwash.

8 A couple of things, just as we were talking about
9 accepting responsibility. You can believe what you want to
03:35:41PM 10 believe because you can listen to testimony and decide, I
11 believe that part. I won't believe that part. I believe all
12 of that, none of that, all points in between, absolutely your
13 call.

14 These are the text messages between him and Mr.
03:35:56PM 15 Pugh from September the 3rd and when Ms. -- when Trey is
16 telling him to bring gloves. Remember that. You decide
17 whether or not he was going to bring gloves -- oh, that was
18 going to be something else. Did you notice by the way -- you
19 know, when I passed him back -- we call it passing the
03:36:21PM 20 witness -- when I said no further questions, Mr. Brown could
21 have asked him all the questions he wanted to. He was entitled
22 to do that. Did he come back and say, Trey tell us what those
23 gloves were really going to be for that look so bad on your
24 text messages when you say two different times, please bring
03:36:41PM 25 gloves. So are we accepting responsibility? Are we really

1 accepting responsibility?

2 And we made a big deal, a bullet went out the door
3 towards him. Here is State's Exhibit 33 and it doesn't take a
4 ballistics expert or a trajectory expert to tell you -- you can
03:37:00PM 5 look, those are State's Exhibit 32 -- those are the only two
6 bullet holes in the door, and they both obviously came from the
7 same direction and went out the same way. You do not have to
8 be a law enforcement officer to see that. You can see the
9 expansion of the bullet on the outside. There was no bullet
03:37:21PM 10 that went from inside that bedroom out. That just did not
11 happen. So are we accepting responsibility? Really?

12 Oh, yeah, I broke into his house and I had a gun
13 -- I was collecting a debt by the way. Wasn't robbing him.
14 Wasn't robbing him, just collecting a debt. He shot so I fired
03:37:45PM 15 back. Oh, that's accepting responsibility. You're kidding me.
16 You're kidding me if that's accepting responsibility. That is
17 blaming somebody else again. Oh, somebody else made me do
18 this. You know what, drugs and alcohol is not an excuse. It's
19 not a defense. It's not mitigating, otherwise every druggee in
03:38:13PM 20 Kerr County would come up and say, you can't prosecute me for
21 that. I was stoned when I did it. I get a Get Out of Jail
22 Free Card. I was messed up. I took Xanax that I had gotten
23 illegally in violation of my probation. Come on, you're
24 smarter than that. You're smarter than that.

03:38:33PM 25 You know, I don't get paid on a win or loss

1 record. I don't get paid -- well, you get this salary if you
2 win all your cases; you get this salary if you lose all your
3 cases; you get this or fifty-fifty. It doesn't make any
4 difference to me at the end of the day, win or loss, but I
03:38:48PM 5 don't like to lose. So the implication that I'm going to hide
6 something from you quite frankly is a little bit insulting
7 because, you know, I'm just not going to do that. You heard
8 Carol Twiss say, we have hundreds of photos. If I had
9 introduced every photo we had, we would still be there going
03:39:06PM 10 through the photos. I apologize for not introducing every
11 photo we have. So if you want to accuse me of hiding evidence
12 or you want to think that's me hiding evidence, then I'm real
13 sorry.

14 You saw some emotion from the defendant, yeah,
03:39:18PM 15 you did. And I got a little emotional and some of you got a
16 little emotional and that's okay. That's absolutely okay.
17 The defendant cried when he talked about his parents. Did you
18 notice who he didn't cry for? Did you notice who he did not
19 shed a single tear for? Think about it for a second. Amber
03:39:41PM 20 and that little boy. Not a tear. Not a sniffle. Not one,
21 but he boohooed when it was him and his family. Oh, oh
22 goodness.

23 And I have no doubt that the military didn't
24 handle him well. I'll accept that. That's disappointing to
03:39:59PM 25 the military, but we didn't do that and the military didn't

1 make him go do what he did, and he didn't care about Amber and
2 he didn't care about Brennan and he didn't cry because he
3 doesn't care about them now. He cares about himself.

03:40:22PM 4 And if you look back at his entire conduct of
5 behavior from when he got out of the military, that's what's
6 it's been. What is good for Travis and what does Travis want
7 to do and that's what drives us.

8 Remember, I mentioned the word in voir dire,
9 minimize? Remember I mentioned that? Y'all heard about
03:40:44PM 10 minimize, I think that's what you got. Well, this is just
11 somebody else's fault. Well, I didn't really -- oh, I shot
12 the gun, yeah, but only because a bullet came out the door and
13 got me. Well, yeah, he kicked in the door. Well, I would
14 have gone in there anyway. We weren't there to rob, we were
03:41:00PM 15 there to collect a debt with guns. Goodness, it was like
16 pulling teeth. Just, hey, you went there, but I'm glad you
17 didn't kill them. Man.

18 The video, now I want to tell you, the video is
19 in evidence and Kerr County just invested in a great big TV
03:41:26PM 20 that you've seen back there. There is one in your room. If
21 you want to watch that video again, you can. I'm just telling
22 you that. It will go back there with you if you ask for it.
23 If you want to see it again, watch it.

24 What's the one thing that we can say for sure
03:41:41PM 25 about the defendant in that entire video? He lied his butt

1 off. He lied his butt off. That's quite a performance and
2 you saw one then and you saw another one now.

3 So what happened inside the house? You heard from
4 two people that were there. You heard other people talk about
03:42:10PM 5 this person said this, this person said that. You had two
6 people in the house. What happened inside the house? You have
7 his version and you have Amber's version. And he told you, she
8 was probably traumatized and he admitted it. Boy, when you're
9 traumatized, you remember what happened. Remember him saying

03:42:31PM 10 that? You remember what happened when you were traumatized and
11 she said, he was 3 or 4 feet away from me and he pointed the
12 gun in my face. That's what she said. Now, what does she
13 have? How did she get involved in this? She didn't choose
14 this. She didn't choose this. This wasn't something she
03:42:59PM 15 wanted to be in. She wouldn't even make eye contact with him.
16 No telling how many scars they're going to carry for the rest
17 of their lives. You want to feel sorry for somebody, you feel
18 sorry for this little boy right there because he gets to walk
19 around with this and he didn't ask for it and he didn't deserve
03:43:20PM 20 it.

21 The truth and the facts matter, that's what Mr.
22 Brown said. The truth and the facts matter and he is
23 absolutely right. And unfortunately, I don't think you heard
24 them from this defendant. I think he's still making up
03:43:47PM 25 stories about what happened out there, how many people went,

1 who all was there and who did what when. I don't think you've
2 heard it yet. And don't fall for this smoke screen about I'm
3 trying to hide this big ball of not bringing up Wylie
4 Wilkinson over here. The fact of the matter is, the rules of
03:44:07PM 5 subpoenas, he gets to use them just like I do. Mr. Wilkinson
6 is under subpoena, he can call him too. It's not just up to
7 me. If he has something big he wants to get out for Mr.
8 Wilkinson, he could have done that. Don't fall for that.
9 Don't fall for that. That's wires and mirrors, that's all
03:44:24PM 10 that is. Don't go into that.

11 Let me show you something else in talking about
12 what all you got told and whether you got told the truth. I
13 think this is going to be real important for you. The vest
14 that he got from Kelly (sic), remember that, remember that
03:44:55PM 15 testimony, got the vest from his friend in Dallas. Where is
16 the bag?

17 MR. BROWN: I'm going to object, Your Honor,
18 that's a misstatement of the testimony. He did not get that
19 vest from a Kelly in Dallas.

03:45:10PM 20 THE COURT: Ladies and Gentlemen, let me tell you,
21 when it comes to final argument, this is the recollections of
22 these attorneys. You are to recall what came into evidence and
23 what was sworn to and that's the evidence that you consider. I
24 give the attorneys a little bit of a leeway because they're
03:45:24PM 25 making comments, but you are to recall what the evidence is in

1 this case.

2 You may proceed.

3 MR. MONROE: It may not have been Dallas. I think
4 her name was Kelly from up where it was. If I misstated that,
03:45:37PM 5 I apologize but Kelly, wherever she is.

6 Here is the vest we got from Kelly. Here is the
7 bag where the vest has been sealed in where my evidence
8 sticker is.

9 MR. BROWN: Your Honor, may we approach?

03:45:54PM 10 THE COURT: Yes.

11 (Bench conference).

12 MR. BROWN: There is -- there is evidence inside
13 this pocket that was not admitted. We would ask that he not
14 pull it out because there was not mention of any evidence
03:46:24PM 15 inside of that jacket and I don't know what's inside it.

16 MR. MONROE: I got -- wherever I put my tag, it
17 says vest and cards, business cards. It says it on there that
18 it's in there.

19 MR. BROWN: Your Honor, it was with the bag with
03:46:39PM 20 the vest and there was no mention of any card being admitted
21 into evidence whatsoever.

22 THE COURT: Let me -- get the card and let me see
23 it.

24 Was this given to him through discovery?

03:47:05PM 25 MR. BROWN: It was not.

1 THE COURT: Do you have any idea that they had
2 something in the vest?

3 MR. MONROE: Well, the State is saying in
4 discovery that the cards were recovered with the vest. Officer
03:47:16PM 5 Twiss testified that there were cards in the pocket of the vest
6 when she was on direct examination. This has been available to
7 be examined the entire time. I don't know -- I don't think
8 that he's actually come to look at it.

9 MR. BROWN: Not the vest, Judge. And I didn't
03:47:30PM 10 open up the pockets, and I don't think that we were told that
11 there were business cards in there.

12 THE COURT: You want to show that it's a police
13 vest?

14 MR. MONROE: That's it.

03:47:39PM 15 MR. BROWN: There is no evidence that he put the
16 cards in there and there is no evidence that --

17 THE COURT: Is that in dispute whether or not it's
18 a police issued vest?

19 MR. MONROE: I think I'm going to argue that he
03:47:49PM 20 didn't get it from Kelly (sic). He stole it from his brother.

21 THE COURT: There is no evidence of that.

22 MR. BROWN: There is no evidence of that.

23 THE COURT: I'm not going to admit the cards.

24 (Bench conference ended).

03:48:03PM 25 MR. MONROE: I don't know too many women that keep

1 vests. I guess you guys can decide on that as you want to.

2 Here is what we come down to and this was the
3 question I told you that I thought this was going to be about
4 from the very beginning. I'll just get right to it. You guys
03:48:38PM 5 have got to make a decision as to what behavior you're going
6 to tolerate, what excuses are going to fly, what you're going
7 to let happen in this community. And I know some of you I
8 asked -- I asked all of you if you thought that sending a
9 message was a part of the punishment and some of you said yes
03:49:00PM 10 and a few of you said no and I respect that. I mean, I really
11 do. But the fact of the matter is, like it or not, that is
12 exactly what it does and maybe that's not an effect that you
13 really want it to have or that it should have, but it is and
14 so what do you -- what are you going to do? What's okay?

03:49:22PM 15 We have a guns-blazing aggravated robbery,
16 burglary. Guns are fired over a drug deal and is that going to
17 be okay with you? And from someone whom -- you guys get to
18 decide whether he's accepted responsibility. I think he's
19 still skating. I think he's still trying to figure out what he
03:49:53PM 20 can get you to believe and what he can't. I just don't think
21 he's accepted responsibility. So you can't make him do that,
22 just like you can't make him take his medication. So if he
23 gets off his meds, are we going to go back to what we were?
24 Are we going to go back to that guy on the screen? Is that
03:50:13PM 25 what's going to happen? You have one choice and you have to

1 send him to prison. The question is how long. And I'm telling
2 you, you need to send a message here. You really do. This is
3 bad. This is bad facts. And we can blame this on Wylie
4 Wilkinson, or we can blame this on James Ledford or Carol Twiss
03:50:31PM 5 and if we do, we are missing the point.

6 I'm asking you to speak for this community. I was
7 born and raised here. I'm asking you to be a voice. I'm
8 asking you to make a stand, run a message up on a flagpole as
9 high as we can get it up there that this behavior will not be
03:50:51PM 10 tolerated here ever. I'm sorry James Ledford said what he said
11 if that was incorrect, but quite frankly, I'm hoping it's true.
12 You need to make a statement. Five years is ridiculous. It
13 needs to be a long sentence and give him a long time to think
14 about what he did and the people he put in danger he could have
03:51:21PM 15 killed because he was on drugs and a month ago got better. I
16 know you're smarter than that. I know you are and I know
17 you'll do the right thing.

18 I appreciate it again. If I stepped on toes, if I
19 offended someone, it wasn't my intention to do that, but I'm
03:51:44PM 20 passionate. I'm passionate about justice and I'm passionate
21 about if we commit a crime, you're going to get punished and
22 it's coming. You come here, it's coming. I want it all the
23 way down Interstate 10. When they cross the Kerr County line,
24 it's a tough place to go if you want to do stuff like this.
03:52:07PM 25 That's what I want you to send. That's a message I want you to

1 send and that's a message that needs to be sent. And I thank
2 you. I know you'll do it.

3 THE COURT: Ladies and Gentlemen, a couple of
4 things: We're going to send you back to the jury room. Once
03:52:23PM 5 again, the charge is the only one -- the original is the only
6 one signed by me and there is a paper clip on it; and also Mr.
7 Collie, I think you'll need to get this charge. The exhibits
8 will be brought to you by the court reporter. Ms. Nunley will
9 bring you the exhibits.

03:52:39PM 10 And we're going to have to take your notes up. I
11 don't agree with this, but it's the law that I need to take
12 your notes up and we can give them back to you at the end of
13 the trial in case you would like to keep them for some reason.
14 Or if you don't want them back, we'll shred your notes. But
03:52:56PM 15 oh, there is just some case law about taking them. You can
16 take those notes, maybe kind of keep you focused, but you can't
17 take them with you back to the jury room. So Scott, if you'll
18 take up the pads. And if you think you might want them back,
19 put your name on the top and we'll give them back to you after
03:53:10PM 20 the trial is over.

21 When you have a verdict, you just have your -- Mr.
22 Collie, you'll sign a little note saying, Judge, we have a
23 verdict and hand it to the bailiff and he'll bring it out to
24 me. If you have a question, be sure and write your question
03:53:25PM 25 out, sign your note and hand it to the bailiff.

1 All right. Ladies and Gentlemen, good luck. You
2 may be excused to go back for your deliberations.

3 THE BAILIFF: All rise.

4 (Jury not present).

03:54:08PM 5 THE COURT: We'll be in recess until we have
6 something from the jury. Be sure and give your cell phone
7 numbers in case you step out and we'll call you about a
8 question or a verdict. So we'll be in recess.

9 (Recess).

10 JURY QUESTION

11 (Jury not present).

12 THE COURT: The question is a question that we
13 receive fairly often. It says, Regarding the fine, who pays
14 the fine and where does the money go.

15 You know, the actual answer is: The fine, if any,
16 would be the responsibility of the defendant and the money is
17 distributed to the courts per the state law. That's -- you
18 know, I can't tell them where it goes because the clerk has a
19 breakout of where fine money goes and it's interesting. You
20 know, I could tell them that if you don't have any objection.

21 MR. MONROE: I think that's the appropriate
22 response, Your Honor.

23 MR. BROWN: What would it be? I'm sorry, Judge.

24 THE COURT: The fine would be the responsibility
25 of the defendant. Usually what they mean by that, they're

1 wondering if the mother or the daddy -- one time I had a note
2 sent out that said momma owns 200 acres out in Gillespie
3 County. Do you think the State could get to it because the boy
4 has been fined \$10,000. I've had that note before. But
5 generally they're trying to make sure that the family doesn't
6 have to pay anything. So that's what we generally say. I say
7 the fine is the sole responsibility of the defendant, and the
8 money goes to the courts according to statute.

9 MR. MONROE: That's fine.

10 THE COURT: Any problem with that?

11 MR. BROWN: No, sir.

12 THE COURT: Stay right here and let me write it
13 down and make sure that I read it back to you one more time if
14 that's okay.

15 MR. BROWN: Yes, sir.

16 THE COURT: Okay. So the fine, if any, is the
17 sole responsibility of the defendant and the fine is
18 distributed in accordance with various state laws.

19 MR. MONROE: Fair enough.

20 THE COURT: Any objection?

21 MR. BROWN: No objection from the defense, Your
22 Honor.

23 MR. MONROE: No objection from the State.

24 THE COURT: All right.

25 (Recess, time 4:45 p.m.).

1 THE COURT: I think we have everyone here.

2 THE BAILIFF: All rise.

3 (Jury present).

4 THE COURT: All right. Please have a seat.

04:54:52PM 5 Mr. Collie, has your jury reached a verdict?

6 JUROR: We have, Your Honor.

7 THE COURT: And is your verdict unanimous?

8 JUROR: Yes, sir, it is.

9 THE COURT: Would you hand the verdict form to the
04:55:04PM 10 bailiff, please?

11 VERDICT

12 THE COURT: All right. Mr. Travis, would you
13 please stand. And you already are. Thank you.

14 Mr. Travis, the jury has pronounced a verdict.
04:55:20PM 15 They have previously found you guilty, and I'm about to
16 announce to you what this verdict will be. Do you have
17 anything to say before I pronounce this verdict?

18 THE DEFENDANT: No, sir.

19 THE COURT: We the jury, having found the
04:55:33PM 20 Defendant, Vernon Lee Travis, III, guilty of the offense of
21 burglary of a habitation with intent to commit aggravated
22 assault with a deadly weapon, as charged in the indictment,
23 assess defendant's punishment at confinement in the Texas
24 Department of Criminal Justice Institutional Division for a
04:55:46PM 25 period of 55 years.

1 Signed by Mr. Collie, the foreman of the jury.

2 Mr. Monroe, do you wish to have the indictment --
3 I'm sorry, do you wish to have the jury polled?

04:56:02PM 4 MR. MONROE: The State does not desire that, Your
5 Honor.

6 THE COURT: Do you wish to have the jury polled?

7 MR. BROWN: No, Your Honor.

8 THE COURT: Thank you, you may have a seat.

9 Mr. Monroe, can you -- I would like for everybody
04:56:11PM 10 to stay here until I can sign the judgment sentence. Can
11 y'all get that prepared for me?

12 MR. MONROE: I think it's pretty much ready except
13 for the blanks we need for the jury verdict.

14 THE COURT: Mr. Travis, would you come up here to
04:56:33PM 15 the bench please --

16 THE DEFENDANT: Yes, sir.

17 THE COURT: -- along with the counsel and Mr.
18 Monroe.

19 (Bench conference).

04:56:45PM 20 THE COURT: I will sign the order in just a
21 second, but I'm going to go ahead and make this pronouncement.
22 I've already asked if you have anything to say. The jury has
23 assessed your punishment for 55 years. So in accordance with
24 the jury verdict in this case, I'm going to sentence you to 55
04:57:03PM 25 years in the Texas Department of Criminal Justice Institutional

1 Division. At this time, you'll be remanded to the custody of
2 the sheriff of Kerr County to be delivered to the TDC. You
3 will receive credit for all the time that you have served in
4 this case. At this time, you are in the custody of the
04:57:16PM 5 sheriff.

6 Did you have something to say?

7 MS. COLEMAN: There is a victim impact statement
8 in the folder but no oral statement to be made.

9 THE COURT: All right. Did you want to have me
04:57:25PM 10 read that?

11 I'll note there was a victim impact statement that
12 is part of the Court's records.

13 I will sign the judgment sentence when you bring
14 it up to me and I'll sign it for you, but is there anything
04:57:38PM 15 else we need to do?

16 MR. MONROE: I think the judgment does require the
17 thumb print of the defendant.

18 THE COURT: You have to stay with the deputies and
19 the deputies can keep you until you put your thumb print on
04:57:50PM 20 that.

21 Mr. Brown and Mr. Monroe, y'all were very
22 professional and you did what you had to do.

23 You're still a young man and how you handle this
24 is going to probably determine how your life goes as how you
04:58:15PM 25 handle this. I don't know what I would do, how I would handle

1 it, but if you can come to terms with what's happened and you
2 can accept it, somehow use it to better your life, I wish you
3 God speed on that.

4 THE DEFENDANT: Thank you, sir.

04:58:31PM

5 THE COURT: All right. You may be excused.

6 (Bench conference ended).

7 THE COURT: All right. Ladies and Gentlemen, we
8 don't have anything else we'll be doing on the criminal case,
9 but we're going to be up here for a while on a civil case. So
10 take your time as you want to move out. And I appreciate your
11 attendance and support. You may be excused.

04:58:53PM

12 (Jury dismissed).

13 THE COURT: You're all excused.

14
15 (End of proceedings).
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1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS)
3 COUNTY OF KERR)

4 I, Teri L. Thomas, Deputy Official Court Reporter
5 in and for the 198th District Court, Kerr County, State of
6 Texas, do hereby certify that the above and foregoing contains
7 a true and correct transcription of all portions of evidence
8 and other proceedings requested in writing by counsel for the
9 parties to be included in this volume of the Reporter's
10 Record, in the above-styled and numbered cause, all of which
11 occurred in open court or in chambers and were reported by me.

12 I further certify that this Reporter's Record of
13 the proceedings truly and correctly reflects the exhibits, if
14 any, admitted by the respective parties.

15 I further certify that the total cost for the
16 preparation of this Reporter's Record is \$4,554.72 and was
17 paid by Mr. Gary F. Churak, Attorney for the Defendant.

18 WITNESS MY OFFICIAL HAND this the 30th day of
19 November, 2014.

20 /s/ Teri L. Thomas
21 Teri L. Thomas, Texas CSR #1789
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